

Designation Run Report

CT2 Jennifer Norris PLaintiff Submissions

Norris, Jennifer 08-07-2018

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| 14:8 - 15:1 | <p>Norris, Jennifer 08-07-2018 (00:00:33)</p> <p>14:8 Q. Ma'am, please state your name for the</p> <p>14:9 record.</p> <p>14:10 A. Jennifer Robison Norris.</p> <p>14:11 Q. And, Ms. Norris, where are you currently</p> <p>14:12 employed?</p> <p>14:13 A. Cardinal Health.</p> <p>14:14 Q. And how long have you been at Cardinal</p> <p>14:15 Health?</p> <p>14:16 A. Eighteen years.</p> <p>14:17 Q. And what is your current position at</p> <p>14:18 Cardinal?</p> <p>14:19 A. I'm an attorney in the legal department.</p> <p>14:20 Q. Do you have any particular title?</p> <p>14:21 A. I do. I'm vice president, associate</p> <p>14:22 general counsel, mergers and acquisitions.</p> <p>14:23 Q. I'm sorry. You said mergers and</p> <p>14:24 acquisitions, right?</p> <p>15:1 A. Mm-hmm, and integration.</p> | NJ01-.1 |
| 15:2 - 16:12 | <p>Norris, Jennifer 08-07-2018 (00:01:42)</p> <p>15:2 Q. And how long have you held that title?</p> <p>15:3 A. I've been in that group -- my titles</p> <p>15:4 varied, but I've been in that group for</p> <p>15:5 approximately two years.</p> <p>15:6 Q. And that's the mergers and acquisitions</p> <p>15:7 and integrations group?</p> <p>15:8 A. Yes.</p> <p>15:9 Q. How about prior to that?</p> <p>15:10 A. Prior to that, I was still a vice</p> <p>15:11 president, associate general counsel, but I was in</p> <p>15:12 our commercial group supporting our pharmacy</p> <p>15:13 distribution business primarily.</p> <p>15:14 Q. When you say supporting pharmacy</p> <p>15:15 distribution, give me an understanding of what you</p> <p>15:16 would be doing in that role.</p> <p>15:17 A. My primary role was with acute care and</p> <p>15:18 alternate care customers, working on the customer</p> <p>15:19 facing agreements and issues that came up from</p> <p>15:20 time to time with those customers.</p> <p>15:21 Q. Okay. And how about prior to that?</p> | NJ01-.99 |

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| | <p>15:22 A. I've always been in that group. Again,</p> <p>15:23 my title has varied, and I've supported other</p> <p>15:24 groups within Cardinal Health. I supported</p> <p>16:1 sourcing at one time. We had a corporate sales</p> <p>16:2 group, sold all of the products and services</p> <p>16:3 within Cardinal Health that I supported.</p> <p>16:4 I supported our specialty pharmaceutical</p> <p>16:5 distribution business, our specialty services</p> <p>16:6 business, the 3PL, the third-party logistics</p> <p>16:7 business we have, as well as working on 340B and</p> <p>16:8 other matters within pharmacy distribution.</p> <p>16:9 Q. I've seen 340B before. What's 340B?</p> <p>16:10 A. It's a federally mandated essentially</p> <p>16:11 drug discount program for certain types of</p> <p>16:12 customers.</p> | |
| 16:13 - 16:16 | <p>Norris, Jennifer 08-07-2018 (00:00:08)</p> <p>16:13 Q. Well, you have the pleasure or</p> <p>16:14 the curse of being designated today as a 30(b)</p> <p>16:15 witness. Are you aware of that?</p> <p>16:16 A. I am.</p> | NJ01-.2 |
| 17:2 - 17:8 | <p>Norris, Jennifer 08-07-2018 (00:00:15)</p> <p>17:2 Q. Well, and just so everybody is on the</p> <p>17:3 same page then, that means you've been designated</p> <p>17:4 as the representative for Cardinal Health.</p> <p>17:5 Because Cardinal Health can't speak on its own,</p> <p>17:6 you're here to speak on their behalf on certain</p> <p>17:7 subject matters. Is that your understanding?</p> <p>17:8 A. That is my understanding.</p> | NJ01-.3 |
| 17:12 - 17:17 | <p>Norris, Jennifer 08-07-2018 (00:00:24)</p> <p>17:12 Q. And I'm going to attach as Exhibit 1 --</p> <p>17:13 MR. FULLER: And, Counsel, I'll just</p> <p>17:14 hand everything to you, and you can take one and</p> <p>17:15 pass the extras down.</p> <p>17:16 And this is Norris 1 for the record, now</p> <p>17:17 marked as Plaintiff's 1.</p> | NJ01-.5 |
| 19:2 - 19:4 | <p>Norris, Jennifer 08-07-2018 (00:00:09)</p> <p>19:2 Q. Now, Norris Number 2, which is the</p> <p>19:3 second 30(b) notice, will be marked as Plaintiff's</p> <p>19:4 2 for the purposes of the deposition.</p> | NJ01-.6 |
| 20:19 - 21:13 | <p>Norris, Jennifer 08-07-2018 (00:00:52)</p> | NJ01-.7 |

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20:19 Speaking on behalf of Cardinal, you're
 20:20 in the business of distributing prescription
 20:21 medications, as well as other things, correct?

20:22 A. Yes.

20:23 Q. And that also includes controlled
 20:24 substances; is that right?

21:1 A. Yes. Those are some of the prescription
 21:2 medications that we distribute.

21:3 Q. And there are certain statutes and
 21:4 regulations and rules that apply to you in
 21:5 distributing those medications; is that fair?

21:6 A. Yes.

21:7 Q. And one of them is the Controlled
 21:8 Substances Act; is that right?

21:9 A. Yes.

21:10 Q. And we'll spend a good part of our day
 21:11 talking about the Controlled Substances Act and
 21:12 its various portions and parts.

21:13 MR. FULLER: I'm going to mark as
 21:15 - 21:15 **Norris, Jennifer 08-07-2018 (00:00:03)**

NJ01-.114

21:15 Plaintiff's Number 4, which is Norris Number 4.

21:20 - 22:16 **Norris, Jennifer 08-07-2018 (00:01:06)**

NJ01-.115

21:20 Q. And you have that document in front of
 21:21 you?

21:22 A. I do.

21:23 Q. Okay. And I'll represent to you that
 21:24 this is a portion of the Controlled Substances
 22:1 Act, not the entire thing. And if you look there,
 22:2 it says "United States Code Annotated. Title 21.
 22:3 Chapter 13. Drug Abuse Prevention and Control."
 22:4 Do you see that?

22:5 A. I do.

22:6 Q. And do you know that to be the portion
 22:7 of the U.S. Code that contains the Controlled
 22:8 Substances Act?

22:9 A. I believe so, yes.

22:10 Q. And this is Subchapter 1, Part A,
 22:11 Introductory Provisions.

22:12 And have you seen this before?

22:13 A. I have.

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| 22:18 - 22:21 | <p>22:14 Q. Okay. And you're aware that in Section</p> <p>22:15 801, Congress of the United States of America made</p> <p>22:16 certain declarations and findings; is that right?</p> <p>Norris, Jennifer 08-07-2018 (00:00:06)</p> | NJ01-.8 |
| 22:23 - 22:23 | <p>22:18 A. That's what the section says,</p> <p>22:19 "Congressional Findings and Declarations."</p> <p>22:20 Q. Okay. Particularly related to</p> <p>22:21 controlled substances --</p> <p>Norris, Jennifer 08-07-2018 (00:00:00)</p> | NJ01-.9 |
| 23:1 - 23:10 | <p>22:23 Q. -- is that true?</p> <p>Norris, Jennifer 08-07-2018 (00:00:28)</p> <p>23:1 A. It goes on to say, colon, "Controlled</p> <p>23:2 Substances."</p> <p>23:3 Q. Yes, ma'am. And then it says, "Congress</p> <p>23:4 makes the following findings and declarations."</p> <p>23:5 And if you would, let's start with the</p> <p>23:6 first one and read that one aloud for us, please.</p> <p>23:7 A. "Many of the drugs included within this</p> <p>23:8 subchapter have a useful and legitimate medical</p> <p>23:9 purpose and are necessary to maintain the health</p> <p>23:10 and general welfare of the American people."</p> | NJ01-.10 |
| 24:2 - 24:2 | <p>Norris, Jennifer 08-07-2018 (00:00:02)</p> <p>24:2 Does Cardinal agree with this statement?</p> | NJ01-.11 |
| 24:7 - 24:13 | <p>Norris, Jennifer 08-07-2018 (00:00:19)</p> <p>24:7 A. In my personal capacity, I agree that's</p> <p>24:8 what the words say.</p> <p>24:9 Q. You also agree that controlled</p> <p>24:10 substances have legitimate medical purposes and</p> <p>24:11 are necessary to maintain the health and welfare</p> <p>24:12 of the American people?</p> <p>24:13 A. I agree that --</p> | NJ01-.12 |
| 24:15 - 25:2 | <p>Norris, Jennifer 08-07-2018 (00:00:36)</p> <p>24:15 A. -- that was Congress' finding.</p> <p>24:16 Q. Okay. And read aloud Number 2 for us,</p> <p>24:17 Congress' second finding of this Controlled</p> <p>24:18 Substances Act.</p> <p>24:19 A. "The illegal importation, manufacture,</p> <p>24:20 distribution, and possession and improper use of</p> <p>24:21 controlled substances have a substantial and</p> <p>24:22 detrimental effect on the health and general</p> | NJ01-.13 |

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| 24:23 | welfare of the American people." | |
| 24:24 | Q. Does Cardinal agree and accept that that | |
| 25:1 | was the United States of America Congress' finding | |
| 25:2 | related to controlled substances? | |
| 25:4 - 25:5 | Norris, Jennifer 08-07-2018 (00:00:03) | NJ01-.116 |
| 25:4 | A. I agree that that's what the finding | |
| 25:5 | says. | |
| 27:2 - 27:11 | Norris, Jennifer 08-07-2018 (00:00:30) | NJ01-.14 |
| 27:2 | If you turn to the next page, page 2. | |
| 27:3 | You see this is another section of the Controlled | |
| 27:4 | Substances Act. Do you see that at the top, Title | |
| 27:5 | 21, Chapter 13. Drug Abuse and Prevention -- | |
| 27:6 | excuse me -- Drug Abuse Prevention and Control? | |
| 27:7 | A. I see that. | |
| 27:8 | Q. Okay. And it deals with the authority | |
| 27:9 | to control standards and schedules. | |
| 27:10 | Do you see that? | |
| 27:11 | A. I do. | |
| 28:7 - 28:15 | Norris, Jennifer 08-07-2018 (00:00:21) | NJ01-.15 |
| 28:7 | Q. Ms. Norris, Cardinal is in | |
| 28:8 | the business of distributing Schedule II | |
| 28:9 | controlled substances, amongst other things; is | |
| 28:10 | that right? | |
| 28:11 | A. It is. | |
| 28:12 | Q. And you are also aware, as Cardinal, | |
| 28:13 | that Schedule IIs have a heightened standard when | |
| 28:14 | dealing with them, heightened security standard; | |
| 28:15 | is that correct? | |
| 28:17 - 29:8 | Norris, Jennifer 08-07-2018 (00:00:54) | NJ01-.16 |
| 28:17 | A. I know that Schedule IIs, in addition to | |
| 28:18 | other controlled substances, have different | |
| 28:19 | controls, for lack of a better word, that need to | |
| 28:20 | be applied in the manufacture, distribution, | |
| 28:21 | dispensing, prescribing, and using. | |
| 28:22 | Q. Fair enough. Now, it says Schedule II. | |
| 28:23 | And read A to us, if you don't mind, please. | |
| 28:24 | A. Schedule II. A2? | |
| 29:1 | Q. Yes, ma'am -- no, no. 2A. | |
| 29:2 | A. 2A? | |
| 29:3 | Q. Yes, ma'am. I'm sorry. | |

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| 29:4 - 29:10 | <p>29:4 A. I'm sorry. "Schedule II. The drug or 29:5 other substance has a high potential for abuse." 29:6 Q. Now, as Cardinal Health, you know that 29:7 Schedule IIs do have a high potential for abuse; 29:8 is that correct?</p> <p>Norris, Jennifer 08-07-2018 (00:00:02)</p> | NJ01-.17 |
| 29:17 - 29:20 | <p>29:10 A. That's what the statute says here.</p> <p>Norris, Jennifer 08-07-2018 (00:00:11)</p> <p>29:17 Sitting here today as Cardinal Health, 29:18 do you agree that the U.S. Congress has determined 29:19 that Schedule IIs are drugs and other substances 29:20 that have a high potential for abuse?</p> | NJ01-.171 |
| 29:22 - 30:2 | <p>Norris, Jennifer 08-07-2018 (00:00:07)</p> <p>29:22 A. That is the definition that is included 29:23 in this statute. 29:24 Q. That's the definition provided by the 30:1 U.S. Congress, correct? 30:2 A. Yes, it is.</p> | NJ01-.172 |
| 31:2 - 31:8 | <p>Norris, Jennifer 08-07-2018 (00:00:23)</p> <p>31:2 Q. read C to us aloud, please. 31:3 A. "Abuse of the drug or other substances 31:4 may lead to severe psychological or physical 31:5 dependence." 31:6 Q. And do you agree with that finding by 31:7 the U.S. Congress related to Schedule II 31:8 controlled substances?</p> | NJ01-.19 |
| 31:10 - 31:12 | <p>Norris, Jennifer 08-07-2018 (00:00:08)</p> <p>31:10 A. I agree that's what the statute says. 31:11 I'm not a medical professional to opine on that 31:12 particular statement.</p> | NJ01-.20 |
| 33:4 - 33:7 | <p>Norris, Jennifer 08-07-2018 (00:00:13)</p> <p>33:4 Q. Okay. And if you look down at the 33:5 bottom section, when does it indicate this statute 33:6 was created? If you look down at the bottom, when 33:7 does it indicate this statute was created?</p> | NJ01-.21 |
| 33:9 - 33:9 | <p>Norris, Jennifer 08-07-2018 (00:00:02)</p> <p>33:9 A. The paper says October 27, 1970.</p> | NJ01-.118 |
| 33:12 - 33:14 | <p>Norris, Jennifer 08-07-2018 (00:00:04)</p> <p>33:12 Does Cardinal know whether the 33:13 Controlled Substances Act went into effect in</p> | NJ01-.22 |

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| 33:16 - 34:20 | <p>33:14 1970?</p> <p>Norris, Jennifer 08-07-2018 (00:01:43)</p> <p>33:16 A. I thought it was 1971, but --</p> <p>33:17 Q. Somewhere around that time frame; is</p> <p>33:18 that fair?</p> <p>33:19 A. The early '70s, yes.</p> <p>33:20 Q. We'll go to page number 4. And this</p> <p>33:21 deals with registration requirements, Section 823.</p> <p>33:22 Do you see that?</p> <p>33:23 A. I see Section 823, Registration</p> <p>33:24 Requirements.</p> <p>34:1 Q. One of the things that the potential</p> <p>34:2 distributor has to do is maintain the "maintenance</p> <p>34:3 of the effective control against diversion of</p> <p>34:4 particular controlled substances into other than</p> <p>34:5 legitimate medical, scientific, and industrial</p> <p>34:6 channels."</p> <p>34:7 Did I read that correctly?</p> <p>34:8 A. "Distributors of controlled substances</p> <p>34:9 in Schedule I or Schedule II. The following</p> <p>34:10 factors shall be considered."</p> <p>34:11 Now, I assume there are more factors.</p> <p>34:12 You only listed one of them.</p> <p>34:13 Q. That's correct, yes, ma'am.</p> <p>34:14 A. But one of the factors in determining</p> <p>34:15 whether or not the issuance of a registration is</p> <p>34:16 inconsistent with the public interest is</p> <p>34:17 maintaining -- maintenance of an effective control</p> <p>34:18 against diversion of particular controlled</p> <p>34:19 substances into other than legitimate medical,</p> <p>34:20 scientific, and industrial channels.</p> | NJ01-.119 |
| 35:4 - 35:9 | <p>Norris, Jennifer 08-07-2018 (00:00:19)</p> <p>35:4 Q. Now, this is going to help us, at least</p> <p>35:5 to some degree, talk about when that act was</p> <p>35:6 passed.</p> <p>35:7 Counsel is handing you what is marked as</p> <p>35:8 Norris 5 and Plaintiff's Exhibit Number 5.</p> <p>35:9 Have you seen this document before?</p> | NJ01-.122 |
| 35:13 - 36:3 | <p>Norris, Jennifer 08-07-2018 (00:00:38)</p> <p>35:13 MR. FULLER: It is the</p> | NJ01-.120 |

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| | 35:14 Congressional Record from the Controlled 35:15 Substances Act. 35:16 A. I have not seen this document before, 35:17 no. 35:18 Q. Okay. And then, therefore, I will 35:19 represent to you that it is the Congressional 35:20 Record from the Controlled Substances Act. It's 35:21 the discussion they had on the floor when they 35:22 were passing the Act. 35:23 And if you look on the second page, it 35:24 has a date of September 10, 1970. 36:1 Do you see that? 36:2 A. September 10, 1970. I see August 12, 36:3 1970. | |
| 36:6 - 36:12 | Norris, Jennifer 08-07-2018 (00:00:19) 36:6 A. Oh, you mean actually the first page? 36:7 Q. Yeah. I'm sorry. 36:8 A. I'm sorry. September 10, 1970, yes. 36:9 Q. Okay. And on that same page, you see up 36:10 near the top, it's the Comprehensive Drug Abuse 36:11 Prevention and Control Act of 1970. 36:12 A. Yes, I see that title. | NJ01-.121 |
| 36:22 - 37:10 | Norris, Jennifer 08-07-2018 (00:00:39) 36:22 Q. All right. So if you go to page 5, this 36:23 is titled -- or at least on this page this is 36:24 titled Control and Enforcement. 37:1 Do you see that? 37:2 A. I see that title. 37:3 Q. And then read the first statement there. 37:4 A. "The bill provides for control by the 37:5 Justice Department of problems related to drug 37:6 abuse through registration of manufacturers, 37:7 wholesalers, retailers, and all others in the 37:8 legitimate distribution chain and makes 37:9 transactions outside the legitimate distribution 37:10 chain illegal." | NJ01-.24 |
| 37:13 - 37:14 | Norris, Jennifer 08-07-2018 (00:00:05) 37:13 Does Cardinal accept that that is one of 37:14 the Congressional bases for passing this act? | NJ01-.25 |
| 37:16 - 37:20 | Norris, Jennifer 08-07-2018 (00:00:16) | NJ01-.123 |

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| 37:16 | A. I acknowledge that that's what's written | |
| 37:17 | in the record here. | |
| 37:18 | Q. And that they make or are attempting to | |
| 37:19 | make transactions outside the legitimate | |
| 37:20 | distribution chain illegal? | |
| 37:22 - 38:7 | Norris, Jennifer 08-07-2018 (00:00:29) | NJ01-.124 |
| 37:22 | A. That's the statement this language | |
| 37:23 | makes. | |
| 37:24 | Q. And let me ask you -- we'll get to | |
| 38:1 | regulations and such further down the road. | |
| 38:2 | But as Cardinal, sitting here today, is | |
| 38:3 | it your understanding that if we don't comply -- | |
| 38:4 | well, let me ask it differently. | |
| 38:5 | If we follow the regulations of the | |
| 38:6 | Controlled Substances Act, then we are acting | |
| 38:7 | legally. Would you agree with that? | |
| 38:10 - 38:10 | Norris, Jennifer 08-07-2018 (00:00:01) | NJ01-.100 |
| 38:10 | A. The company's obligation is to follow | |
| 38:11 - 38:23 | Norris, Jennifer 08-07-2018 (00:00:33) | NJ01-.26 |
| 38:11 | the regulations and the guidance provided by the | |
| 38:12 | DEA. | |
| 38:13 | Q. And that includes the -- not just the | |
| 38:14 | regulations, but also the statutes pertaining to | |
| 38:15 | it, correct? | |
| 38:16 | A. The statutes, the regulations, the | |
| 38:17 | applicable law. | |
| 38:18 | Q. All the appropriate rules? | |
| 38:19 | A. The applicable law as modified or | |
| 38:20 | provided and the additional guidance by the DEA. | |
| 38:21 | Q. Okay. And would you -- does Cardinal | |
| 38:22 | agree that if we don't follow those rules as | |
| 38:23 | you've labeled them, that we are breaking the law? | |
| 39:2 - 39:6 | Norris, Jennifer 08-07-2018 (00:00:11) | NJ01-.125 |
| 39:2 | A. A failure -- Cardinal Health's | |
| 39:3 | obligations are to follow the law. | |
| 39:4 | Q. And if we don't follow the law, for | |
| 39:5 | example, the Controlled Substances Act, then we're | |
| 39:6 | breaking the law -- | |
| 39:9 - 39:9 | Norris, Jennifer 08-07-2018 (00:00:00) | NJ01-.126 |
| 39:9 | Q. -- correct? | |

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| 39:12 - 39:15 | Norris, Jennifer 08-07-2018 (00:00:04) 39:12 A. If you don't follow the law, you're 39:13 breaking the law. 39:14 Q. Is that a yes? 39:15 A. Yes. | NJ01-.27 |
| 54:7 - 54:9 | Norris, Jennifer 08-07-2018 (00:00:06) 54:7 Q. You said Cardinal Health has an 54:8 obligation to maintain effective controls against 54:9 diversion. Why? | NJ01-.28 |
| 54:12 - 54:15 | Norris, Jennifer 08-07-2018 (00:00:10) 54:12 A. My understanding is that's the language 54:13 of the law that applies to us. 54:14 Q. So are they only doing that because 54:15 that's the law that applies to them? | NJ01-.127 |
| 54:17 - 54:19 | Norris, Jennifer 08-07-2018 (00:00:04) 54:17 A. Cardinal Health is a corporation that 54:18 operates in accordance with the laws that apply to 54:19 it. | NJ01-.29 |
| 56:6 - 56:19 | Norris, Jennifer 08-07-2018 (00:00:54) 56:6 Q. Now, if you go to page 34. And I 56:7 promise we're getting to the end of my tabs in 56:8 this document. 56:9 Did you make it there? 56:10 A. I have. 56:11 Q. It says, "The illegal importation, 56:12 manufacture, distribution, and possession, and 56:13 improper use of controlled substances have a 56:14 substantial detrimental effect on the public's 56:15 health and general welfare." 56:16 Do you see that? 56:17 A. I do. 56:18 Q. And does Cardinal agree that that's one 56:19 of the findings by Congress? | NJ01-.30 |
| 56:21 - 57:3 | Norris, Jennifer 08-07-2018 (00:00:23) 56:21 A. I believe, as we talked about before, in 56:22 accordance with Section 801, that is a finding of 56:23 Congress, yes. 56:24 Q. And that's one of the goals behind this 57:1 Controlled Substances Act, again, is to ensure the 57:2 legitimate distribution of controlled substances | NJ01-.130 |

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| 57:5 - 57:9 | 57:3 in keeping them out of the illicit market, right? Norris, Jennifer 08-07-2018 (00:00:12) | NJ01-.129 |
| | 57:5 A. Yes. | |
| | 57:6 Q. And Cardinal also recognizes that | |
| | 57:7 distributions into the illicit market have a | |
| | 57:8 substantial and detrimental effect on the public's | |
| | 57:9 health and general welfare? | |
| 57:11 - 57:13 | Norris, Jennifer 08-07-2018 (00:00:07) | NJ01-.128 |
| | 57:11 A. - the illegal distribution | |
| | 57:12 has a substantial detrimental effect on the | |
| | 57:13 public's health and general welfare. | |
| 60:18 - 61:1 | Norris, Jennifer 08-07-2018 (00:00:17) | NJ01-.31 |
| | 60:18 Q. But before we do that, you are aware | |
| | 60:19 that there is a suspicious order reporting | |
| | 60:20 requirement; is that correct? | |
| | 60:21 A. I am. | |
| | 60:22 Q. And this obligation to maintain | |
| | 60:23 effective controls against diversion is separate | |
| | 60:24 and distinct from that other regulation; would you | |
| | 61:1 agree? | |
| 61:4 - 61:13 | Norris, Jennifer 08-07-2018 (00:00:29) | NJ01-.165 |
| | 61:4 A. They're in two separate places, but I | |
| | 61:5 would argue that suspicious order reporting is | |
| | 61:6 part of maintaining effective controls against | |
| | 61:7 diversion. | |
| | 61:8 Q. It may be a subset, correct? | |
| | 61:9 A. Yes. | |
| | 61:10 Q. You would also agree, as Cardinal, that | |
| | 61:11 there are other things that we have to do to | |
| | 61:12 maintain effective controls against diversion | |
| | 61:13 other than suspicious order reporting, correct? | |
| 61:15 - 61:15 | Norris, Jennifer 08-07-2018 (00:00:02) | NJ01-.166 |
| | 61:15 A. Yes. | |
| 62:15 - 62:22 | Norris, Jennifer 08-07-2018 (00:00:21) | NJ01-.32 |
| | 62:15 Q. Okay. And this is -- we were earlier | |
| | 62:16 looking at the U.S. Code, correct, and now we're | |
| | 62:17 looking at the Code of Federal Regulations, right? | |
| | 62:18 A. Yes. | |
| | 62:19 Q. Okay. And this is still Title 21, | |
| | 62:20 Chapter 2. Do you see that? "Drug Enforcement | |

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| 63:9 - 63:22 | <p>62:21 Administration, Department of Justice." 62:22 A. I see that in the title.</p> <p>Norris, Jennifer 08-07-2018 (00:00:50)</p> <p>63:9 Q. And this is -- Ms. Norris, this is Part 63:10 1301, "Registration of Manufacturers, 63:11 Distributors, and Dispensers of Controlled 63:12 Substances, Security Requirements." 63:13 Have you seen this section before or the 63:14 complete section? 63:15 A. I have. 63:16 Q. And if you will read 1301.74 there to 63:17 us, please. 63:18 A. "Other security controls for 63:19 non-practitioners; narcotic treatment programs and 63:20 compounders for narcotic treatment programs." 63:21 Q. And does Cardinal agree that this 63:22 section applies to them?</p> | NJ01-.33 |
| 63:24 - 64:24 | <p>Norris, Jennifer 08-07-2018 (00:01:23)</p> <p>63:24 A. It's my understanding that this section 64:1 applies to Cardinal. 64:2 Q. Okay. And then read the requirements 64:3 under B to us, if you would, please. 64:4 A. "The registrant shall design and operate 64:5 a system to disclose to the registrant suspicious 64:6 orders of controlled substances. The registrant 64:7 shall inform the field division office of the 64:8 administration in his area of suspicious orders 64:9 when discovered by the registrant. Suspicious 64:10 orders include orders of unusual size, orders 64:11 deviating substantially from a normal pattern, and 64:12 orders of unusual frequency." 64:13 Q. And does Cardinal believe it fits the 64:14 description of registrant as it relates to this 64:15 code section -- this regulation? I'm sorry. 64:16 A. Yes. Cardinal is a registrant. 64:17 Q. And does Cardinal believe it has an 64:18 obligation under this regulation to operate a 64:19 system to disclose suspicious orders of controlled 64:20 substances? 64:21 A. Cardinal Health's obligation is to</p> | NJ01-.167 |

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| 66:7 - 66:13 | <p>64:22 comply with this section, which requires it to 64:23 design and operate a system to disclose suspicious 64:24 orders of controlled substances.</p> <p>Norris, Jennifer 08-07-2018 (00:00:14)</p> <p>66:7 Does Cardinal operate a system to 66:8 disclose suspicious orders? 66:9 A. Yes. 66:10 Q. And have they always operated or 66:11 maintained such a system? 66:12 A. Yes, in accordance with the DEA 66:13 guidance.</p> | NJ01-.111 |
| 77:4 - 77:7 | <p>Norris, Jennifer 08-07-2018 (00:00:16)</p> <p>77:4 Q. And can we agree that the rules that are 77:5 laid out are partially designed to keep the 77:6 American people safe when we're dealing with 77:7 controlled substances?</p> | NJ01-.34 |
| 77:9 - 77:20 | <p>Norris, Jennifer 08-07-2018 (00:00:35)</p> <p>77:9 A. The rules, as I understand them, are to 77:10 ensure that the participants in the distribution 77:11 system understand their obligations and operate 77:12 within that distribution -- that closed 77:13 distribution system, maintaining the security of 77:14 the pharmaceuticals we distribute, the scheduled 77:15 substances we distribute. 77:16 Q. And the rules also indicate a 77:17 Congressional finding that if we don't keep them 77:18 in their legitimate channels, that they can be 77:19 dangerous to the health and general welfare of the 77:20 American public, correct?</p> | NJ01-.169 |
| 77:23 - 78:3 | <p>Norris, Jennifer 08-07-2018 (00:00:18)</p> <p>77:23 A. Congress made a finding that the illegal 77:24 distribution -- let me make sure I read it 78:1 correctly -- "would have a substantial and 78:2 detrimental effect on the health and general 78:3 welfare of the American people."</p> | NJ01-.173 |
| 91:17 - 91:20 | <p>Norris, Jennifer 08-07-2018 (00:00:08)</p> <p>91:17 Q. But, again, Cardinal did its job in 91:18 staying informed as to what's going on in the 91:19 communities that it's distributing to around the 91:20 country, correct?</p> | NJ01-.174 |

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| 91:23 - 91:24 | Norris, Jennifer 08-07-2018 (00:00:04) 91:23 A. Cardinal Health understands the 91:24 customers that it is distributing to. | NJ01-.175 |
| 116:20 - 117:14 | Norris, Jennifer 08-07-2018 (00:01:03) 116:20 MR. FULLER: This is Norris 8, it's 116:21 going to be Plaintiff's Exhibit Number 12. 116:22 BY MR. FULLER: 116:23 Q. And, ma'am, have you seen this case 116:24 before? 117:1 A. I have. 117:2 Q. And what case is it? 117:3 A. Masters Pharmaceutical, Inc. v. DEA. 117:4 Q. Okay. And you're aware this decision 117:5 came out in June of last year; is that correct? 117:6 A. I believe so. 117:7 Q. And it deals with the Controlled 117:8 Substances Act and the shipping and reporting 117:9 requirements; is that correct? 117:10 A. I believe it mentions the shipping 117:11 requirement, and the reporting requirement is sort 117:12 of the central issue. 117:13 Q. So it discusses both; is that correct? 117:14 A. It makes reference to both, yes. | NJ01-.36 |
| 120:21 - 121:11 | Norris, Jennifer 08-07-2018 (00:01:00) 120:21 Q. All right. So let's look at Masters 120:22 Pharmaceutical. And if you'll turn to page 7 for 120:23 me. 120:24 A. Yes, I'm there. 121:1 Q. Okay. And if you will read where it 121:2 starts, "The security requirement." 121:3 A. "The 'security requirement' at the heart 121:4 of the case mandates that distributors 'design and 121:5 operate a system' to identify 'suspicious orders 121:6 of controlled substances' and report those to DEA 121:7 (the Reporting Requirement)." 121:8 Q. Does Cardinal Health agree that it has a 121:9 reporting requirement to identify and report 121:10 suspicious orders of controlled substances? 121:11 A. Yes. | NJ01-.37 |
| 122:1 - 122:5 | Norris, Jennifer 08-07-2018 (00:00:11) | NJ01-.38 |

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| 122:8 - 122:12 | <p>122:1 Cardinal agrees that this reporting 122:2 requirement has been the obligation since the 122:3 enactment of the regulation that we looked at 122:4 earlier in 1971 related to suspicious orders, 122:5 correct?</p> <p>Norris, Jennifer 08-07-2018 (00:00:11)</p> <p>122:8 A. This reporting requirement has existed 122:9 since 1971 in the statute. 122:10 Q. And the rendition of it that we just 122:11 read is the obligation that it places on Cardinal, 122:12 correct?</p> | NJ01-.178 |
| 122:14 - 123:2 | <p>Norris, Jennifer 08-07-2018 (00:00:45)</p> <p>122:14 A. That is correct, as modified by the DEA 122:15 guidance we have received over the years, yes. 122:16 Q. Well, now, that's a different 122:17 qualification now. Okay. 122:18 I believe you've already agreed -- and 122:19 correct me if I am wrong -- that the reporting 122:20 requirement requires Cardinal to identify and 122:21 report suspicious orders of controlled substances; 122:22 is that accurate? 122:23 A. That is what the regulation requires. 122:24 Q. And that regulation has been in place 123:1 since 1971 and has always required that; is that 123:2 Cardinal's position?</p> | NJ01-.177 |
| 123:5 - 123:18 | <p>Norris, Jennifer 08-07-2018 (00:00:29)</p> <p>123:5 A. The language of the statute has always 123:6 required that. The DEA's guidance to us on how to 123:7 implement that has changed over time. 123:8 Q. And I'm not asking about implementation 123:9 right now. 123:10 A. Okay. 123:11 Q. So let's separate the two, okay? 123:12 A. Okay. 123:13 Q. As far as the reporting requirement 123:14 itself, has that been an obligation that's been on 123:15 Cardinal since the regulation was enacted in 1971 123:16 with the caveat whenever Cardinal started 123:17 distributing controlled substances? 123:18 A. Yes. Yes.</p> | NJ01-.176 |

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| 124:14 - 125:1 | Norris, Jennifer 08-07-2018 (00:00:37) 124:14 Ms. Norris, the case then reads, "The 124:15 Reporting Requirement is a relatively modest one. 124:16 It requires only that a distributor provide basic 124:17 information about certain orders to the DEA so 124:18 that DEA investigators in the field can aggregate 124:19 reports from every point along the legally 124:20 regulated supply chain and use the information to 124:21 ferret out potential illegal activity." 124:22 Is that correct? 124:23 A. That is correct. 124:24 Q. And is that Cardinal's understanding of 125:1 the law? | NJ01-.39 |
| 125:3 - 125:9 | Norris, Jennifer 08-07-2018 (00:00:22) 125:3 A. I believe so, yes. 125:4 Q. Okay. And let's break it down. It says 125:5 that it requires a distributor to provide basic 125:6 information about certain orders to the DEA. And 125:7 Cardinal would agree that the basic information is 125:8 at least to provide the order that's being 125:9 submitted that qualifies as suspicious, correct? | NJ01-.183 |
| 125:11 - 125:17 | Norris, Jennifer 08-07-2018 (00:00:14) 125:11 A. Generally, yes. 125:12 Q. Okay. "And this is just a further 125:13 explanation of the reporting requirement we just 125:14 talked about; therefore, it applies all the way 125:15 back to 1971 when the suspicious order regulation 125:16 was enacted." 125:17 Does Cardinal agree with that? | NJ01-.182 |
| 125:20 - 126:4 | Norris, Jennifer 08-07-2018 (00:00:27) 125:20 A. I can't opine on that. This feels like 125:21 more commentary about what they thought it meant 125:22 in the case that's then referenced there. 125:23 Q. So does -- I'm sorry. Go ahead. 125:24 A. But the reporting requirement went back 126:1 to 1971. 126:2 Q. So as it relates to what you've 126:3 qualified as commentary, does Cardinal agree or 126:4 disagree with that, that that is their obligation? | NJ01-.181 |
| 126:7 - 126:19 | Norris, Jennifer 08-07-2018 (00:01:29) | NJ01-.180 |

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126:7 A. I believe that that is Cardinal's

126:8 obligation.

126:9 Q. Now, let's go further down. Let's go

126:10 down to the next sentence. "Once a distributor

126:11 has reported a suspicious order, it must make one

126:12 of two choices: Decline to ship the order or

126:13 conduct some due diligence; and if it is able to

126:14 determine that the order is not likely to be

126:15 diverted into legal channels, ship the order," and

126:16 then in parentheses "Shipping requirement."

126:17 Does Cardinal agree that based on this

126:18 case, Masters Pharmaceutical, as of June of last

126:19 year, Cardinal now has a shipping requirement?

126:21 - 129:6

Norris, Jennifer 08-07-2018 (00:02:51)

NJ01-.179

126:21 A. In 2017, did Cardinal Health have a

126:22 shipping requirement?

126:23 Q. Yes, ma'am.

126:24 A. Yes.

127:1 Q. Prior to 2000- -- prior to the rendering

127:2 of the Masters Pharmaceutical case, did Cardinal

127:3 have a shipping requirement?

127:4 A. Yes.

127:5 Q. How far back does Cardinal take the

127:6 position that this shipping -- strike that.

127:7 Prior to 2017 and the rendering of this

127:8 Masters Pharmaceutical opinion, does Cardinal

127:9 believe its shipping requirement was the same as

127:10 outlined here in the Masters Pharmaceutical case?

127:11 A. Generally, yes.

127:12 Q. Okay. So as it relates to -- and we're

127:13 not going to talk necessarily about how far back

127:14 it goes yet.

127:15 So we have an understanding, the

127:16 shipping requirement gives you two choices,

127:17 correct?

127:18 A. As it's laid out here, yes.

127:19 Q. And you agree -- Cardinal agrees with

127:20 that, correct?

127:21 A. Yes.

127:22 Q. Okay. The first choice is you can

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127:23 decline the ship? You can cut the order as

127:24 Cardinal uses the phrase, correct?

128:1 A. Yes.

128:2 Q. The other alternative is to conduct due

128:3 diligence, and if it's able to -- or if Cardinal

128:4 is able to determine that the order is not likely

128:5 to be diverted into legal channels, then ship the

128:6 order? Is that Cardinal's understanding?

128:7 A. Correct.

128:8 Q. Prior to the enactment or the rendering

128:9 of this Masters Pharmaceutical opinion, when you

128:10 mentioned there was a shipping requirement

128:11 Cardinal believes it had, how far back did that

128:12 same shipping requirement go?

128:13 A. Back to approximately 2007.

128:14 Q. We're going to baby step this, okay? So

128:15 bear with me.

128:16 A. Okay.

128:17 Q. So from approximately some point in

128:18 2007, Cardinal believes it had the shipping

128:19 requirement that's set out in the Masters

128:20 Pharmaceutical case applicable to them?

128:21 A. Approximately, because obviously I think

128:22 we'll get there. The Dear Registrant letters

128:23 started coming out. So approximately that time

128:24 period.

129:1 Q. So since 2007 or approximately that time

129:2 period, Cardinal has not shipped suspicious

129:3 orders, correct?

129:4 A. Since 2007, Cardinal Health has not

129:5 shipped an order that it has reported as

129:6 suspicious to the DEA.

129:7 - 130:6

Norris, Jennifer 08-07-2018 (00:01:38)

NJ01-.101

129:7 Q. And since 2007, Cardinal has not shipped

129:8 a suspicious order that it hasn't determined --

129:9 that it hasn't done the due diligence on to

129:10 determine it's not going to be diverted, correct?

129:11 MS. MAINIGI: Objection; form.

129:12 A. Since approximately 2007, Cardinal

129:13 Health has not shipped an order it has reported as

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| | 129:14 suspicious to the DEA. | |
| | 129:15 Q. Okay. So how many orders since 2007 -- | |
| | 129:16 how many suspicious orders has Cardinal shipped | |
| | 129:17 that it failed to report to the DEA -- | |
| | 129:18 MS. MAINIGI: Objection; form. | |
| | 129:19 Q. -- since 2007? | |
| | 129:20 A. None to Cardinal Health's knowledge. | |
| | 129:21 Q. Prior to 2007, was Cardinal shipping | |
| | 129:22 suspicious orders? | |
| | 129:23 A. Prior to its understanding from the DEA | |
| | 129:24 of the obligation, the change, the sea change in | |
| | 130:1 the obligation to suddenly -- suddenly maybe is | |
| | 130:2 the wrong word -- to not -- | |
| | 130:3 Q. I mean, suddenly is good for you. | |
| | 130:4 A. -- to not ship pursuant to the guidance | |
| | 130:5 by the DEA, it was a report only period. Cardinal | |
| | 130:6 Health made the reports as required by the DEA. | |
| 130:10 - 130:14 | Norris, Jennifer 08-07-2018 (00:00:22) | NJ01-.40 |
| | 130:10 Prior to this approximate time frame of | |
| | 130:11 2007, which we have yet to nail down, Cardinal was | |
| | 130:12 shipping orders that it reported as suspicious? | |
| | 130:13 A. During the time period prior to 2007, | |
| | 130:14 Cardinal Health's obligation was to report only. | |
| 130:20 - 130:23 | Norris, Jennifer 08-07-2018 (00:00:09) | NJ01-.102 |
| | 130:20 Prior to 2007, do you know whether | |
| | 130:21 Cardinal was reporting and then shipping | |
| | 130:22 suspicious orders or shipping suspicious orders | |
| | 130:23 and then reporting? | |
| 131:3 - 131:16 | Norris, Jennifer 08-07-2018 (00:00:52) | NJ01-.185 |
| | 131:3 A. In accordance from the guidance we | |
| | 131:4 received from the DEA, Cardinal Health was making | |
| | 131:5 the reports as required by the DEA, the ingredient | |
| | 131:6 limit reports and the excessive order reports, and | |
| | 131:7 it was shipping orders in accordance with the | |
| | 131:8 guidelines from the DEA. If pursuant to one of | |
| | 131:9 those excessive order reports the DEA said "Do not | |
| | 131:10 ship," we did not ship. | |
| | 131:11 Q. You mentioned excessive order reports | |
| | 131:12 and some other type of reports. | |
| | 131:13 A. Ingredient limit reports. | |

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| 131:14 - 131:22 | <p>131:14 Q. Was Cardinal actually reporting 131:15 suspicious orders prior to this time period in 131:16 2007?</p> <p>Norris, Jennifer 08-07-2018 (00:00:08)</p> <p>131:19 A. As required by the DEA, we were 131:20 submitting the ingredient limit reports pursuant 131:21 to the guidance we received, as well as the 131:22 excessive order reports.</p> | NJ01-.184 |
| 132:14 - 132:16 | <p>Norris, Jennifer 08-07-2018 (00:00:09)</p> <p>132:14 Q. So my question is, did Cardinal file 132:15 suspicious order reports prior to approximately 132:16 2007?</p> | NJ01-.41 |
| 132:18 - 132:21 | <p>Norris, Jennifer 08-07-2018 (00:00:13)</p> <p>132:18 A. I don't know that that's what they were 132:19 calling them at that time. Again, we filed per 132:20 the DEA's guidance ingredient limit reports, 132:21 excessive order reports.</p> | NJ01-.186 |
| 133:17 - 133:20 | <p>Norris, Jennifer 08-07-2018 (00:00:11)</p> <p>133:17 Q. So I'm just asking, during this time 133:18 frame prior to 2007, did Cardinal report orders as 133:19 potentially suspicious or suspicious orders and 133:20 then still send the shipments out?</p> | NJ01-.103 |
| 133:22 - 133:24 | <p>Norris, Jennifer 08-07-2018 (00:00:06)</p> <p>133:22 A. Yes. That is the direction we received 133:23 from the DEA. We made the reports as required, 133:24 and there was not a shipping requirement.</p> | NJ01-.187 |
| 134:1 - 136:3 | <p>Norris, Jennifer 08-07-2018 (00:03:21)</p> <p>134:1 Q. Now, just so I understand, what is an -- 134:2 you said "an excessive order report." What is 134:3 that?</p> <p>134:4 A. Within the distribution centers, the 134:5 folks that are picking the orders have the ability 134:6 to identify an order of a new rule, size, pattern, 134:7 or frequency, and raise their hand, so to speak, 134:8 to identify that order, and in doing so, during 134:9 this time period, we were submitting those to the 134:10 DEA as excessive order reports.</p> <p>134:11 Q. Would they be submitted order by order, 134:12 or was it a compilation of things that occurred 134:13 over a period of time?</p> | NJ01-.42 |

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134:14 A. My understanding is order by order.
 134:15 Q. And what's an ingredient limit report?
 134:16 A. An ingredient limit report is the report
 134:17 that was required pursuant to the 1998 DEA report
 134:18 to, I believe, the Attorney General. It included
 134:19 the algorithm for certain pharmaceuticals, and we
 134:20 on a monthly basis provided the report of the
 134:21 customers who had exceeded the designated amount
 134:22 that you achieve pursuant to doing the algorithm,
 134:23 the math problem.
 134:24 Q. And that was done by ingredient,
 135:1 correct?
 135:2 A. I believe so. I'm not -- I'm actually
 135:3 not positive.
 135:4 Q. So does Cardinal believe -- well, let's
 135:5 try to nail down this time frame in 2007 first,
 135:6 okay?
 135:7 A. Okay.
 135:8 Q. What is its -- what is Cardinal's
 135:9 position as to -- strike that.
 135:10 Is it Cardinal's position or
 135:11 understanding that the initial Rannazzisi letter
 135:12 in 2006 informed them of a shipping requirement as
 135:13 we've described it?
 135:14 A. Yes. That was the first communication
 135:15 Cardinal received regarding this sea change of
 135:16 adding a shipping requirement to the obligations.
 135:17 MS. MAINIGI: Can I just add a
 135:18 clarification, because when you see the phrase
 135:19 "shipping requirement," it suggests you should
 135:20 ship. But by "shipping requirement," you're both
 135:21 saying "do not ship;" is that fair?
 135:22 MR. FULLER: I think that's fair. Thank
 135:23 you.
 135:24
 136:1 BY MR. FULLER:
 136:2 Q. Would you agree with that?
 136:3 A. I would agree with that.
 136:11 So it's Cardinal's position that the

136:11 - 136:21

Norris, Jennifer 08-07-2018 (00:00:36)

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| | 136:12 first time they were informed of a potential 136:13 shipping requirement was in Rannazzisi's 2006 136:14 letter that was sent to all the distributors in 136:15 the industry? 136:16 A. Yes. 136:17 Q. Cardinal also had meetings with the DEA 136:18 around this time frame as well, correct? 136:19 A. Yes. 136:20 Q. When is the first meeting that Cardinal 136:21 had with the DEA? | |
| 136:24 - 137:12 | Norris, Jennifer 08-07-2018 (00:00:38) 136:24 Q. Any time prior to this that you're aware 137:1 of. 137:2 A. Prior to the receipt of the first 137:3 Rannazzisi letter? 137:4 Q. Yes, ma'am. 137:5 A. I know we had a meeting with the DEA 137:6 regarding Internet pharmacies in 2005, but not 137:7 with -- not the subject of what ultimately came 137:8 out in the Rannazzisi letter. 137:9 Q. Well, then let's backstep that. There 137:10 was actually a meeting with Cardinal and the DEA 137:11 in approximately August of 2005; is that correct? 137:12 A. I believe that's the time frame, yes. | NJ01-.188 |
| 137:13 - 137:15 | Norris, Jennifer 08-07-2018 (00:00:08) 137:13 Q. And this meeting included concerns 137:14 related to the Controlled Substances Act and the 137:15 distribution of controlled substances, correct? | NJ01-.104 |
| 137:17 - 137:19 | Norris, Jennifer 08-07-2018 (00:00:06) 137:17 A. I know the meeting -- the topic of the 137:18 meeting was Internet pharmacies. I don't know the 137:19 answer to that question. | NJ01-.189 |
| 139:11 - 139:24 | Norris, Jennifer 08-07-2018 (00:00:56) 139:11 Q. Was there any further communication 139:12 between Cardinal Health and the DEA between 139:13 September of '06 and December of '07 when the 139:14 second Rannazzisi letter came out? 139:15 A. The second being the third, right? 139:16 Q. Technically, yes, ma'am. 139:17 A. Yes. | NJ01-.44 |

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| | 139:18 Q. And what was that? | |
| | 139:19 A. I don't know the specifics of the | |
| | 139:20 communication, but I know that I was told by Steve | |
| | 139:21 Reardon there were communications with the DEA | |
| | 139:22 regarding the Rannazzisi letter, as well as | |
| | 139:23 attendance at a meeting in, I believe it was the | |
| | 139:24 fall of 2007, September maybe, with the DEA. | |
| 140:1 - 140:3 | Norris, Jennifer 08-07-2018 (00:00:16) | NJ01-.192 |
| | 140:1 Again, I can't presently speak to every | |
| | 140:2 single communication that Cardinal Health had. | |
| | 140:3 Q. So is it Cardinal's position -- here. | |
| 140:4 - 140:14 | Norris, Jennifer 08-07-2018 (00:00:41) | NJ01-.193 |
| | 140:4 We keep talking about it, so I'm just going to | |
| | 140:5 give it to you. | |
| | 140:6 A. That would be great. | |
| | 140:7 MR. FULLER: There you go, Counsel. | |
| | 140:8 MS. MAINIGI: Thank you. | |
| | 140:9 MR. FULLER: Sure. And it's Norris 14, | |
| | 140:10 and it's going to be Plaintiff's Exhibit 13 for | |
| | 140:11 purposes of this deposition. And for the record | |
| | 140:12 and everybody listening in, now we finally have | |
| | 140:13 something with a Bates number on it, and it's | |
| | 140:14 CAH_MDL_PRIORPROD_DEA07_00837645. | |
| 140:19 - 142:22 | Norris, Jennifer 08-07-2018 (00:03:07) | NJ01-.191 |
| | 140:19 Q. And, Ms. Norris, this is, I believe, a | |
| | 140:20 document that was provided to us by your counsel. | |
| | 140:21 Do you see that in front of you? | |
| | 140:22 A. I see the document, yes. | |
| | 140:23 Q. Are you aware that this was a letter | |
| | 140:24 that the DEA did send back in 2006, and | |
| | 141:1 specifically September 27 -- God bless you -- | |
| | 141:2 September 27, 2006 to Cardinal Health. | |
| | 141:3 A. Yes. | |
| | 141:4 Q. And in your preparation for this | |
| | 141:5 deposition, you had this document obtained and | |
| | 141:6 you've reviewed this document; is that correct? | |
| | 141:7 A. I have. | |
| | 141:8 Q. And does this copy of it appear to be | |
| | 141:9 the same as the copy that you pulled from | |
| | 141:10 Cardinal's files to review? | |

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141:11 A. Yes. It appears to be the document I've
141:12 reviewed.

141:13 Q. Now, you mentioned earlier just briefly
141:14 that there was a second and a third -- well, yeah,
141:15 a second and a third letter, right?

141:16 A. Yes.

141:17 Q. And that's because in the early part of
141:18 2007, the DEA sent another copy of this letter out
141:19 to all the wholesale distributors; is that
141:20 correct?

141:21 A. That is what I understand, yes.

141:22 Q. And you believe that letter to be a
141:23 pretty much identical copy of this one; is that
141:24 right?

142:1 A. Yes.

142:2 Q. And then when I said the second DEA
142:3 letter, that is my fault, and I apologize. But it
142:4 was actually -- you're correct -- the third that
142:5 was sent at the end of 2007.

142:6 Is that your understanding?

142:7 A. That is my understanding.

142:8 Q. Okay. Fair enough. I apologize for
142:9 that confusion. Completely on me.

142:10 So, ma'am, read the first two sentences
142:11 of this letter from the DEA to Cardinal Health.

142:12 A. "This letter is being sent to every
142:13 commercial entity in the United States registered
142:14 with the Drug Enforcement Administration to
142:15 distribute controlled substances. The purpose of
142:16 this letter is to reiterate the responsibilities
142:17 of controlled substance distributors in view of
142:18 the prescription drug abuse problem our nation
142:19 currently faces."

142:20 Q. Does Cardinal recognize that at this
142:21 point of time in 2006, that we did have a
142:22 prescription drug abuse problem in our nation?

142:24 - 143:17

Norris, Jennifer 08-07-2018 (00:01:00)

NJ01-.194

142:24 A. Yes.

143:1 Q. And Cardinal also recognizes that it is
143:2 one of a multitude of players in this distribution

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| | 143:3 channel of prescription drugs, correct? | |
| | 143:4 A. Yes. | |
| | 143:5 Q. And that -- strike that. | |
| | 143:6 If you'll go down to the Background | |
| | 143:7 section. Do you see that section next? | |
| | 143:8 A. Yes. | |
| | 143:9 Q. And if you'll read that first sentence, | |
| | 143:10 "As each of you are -- or is undoubtedly aware." | |
| | 143:11 A. "As each of you is undoubtedly aware, | |
| | 143:12 the abuse (nonmedical use) of controlled | |
| | 143:13 prescription drugs is a serious and growing health | |
| | 143:14 problem in this country." | |
| | 143:15 Q. Does Cardinal accept and adopt that | |
| | 143:16 statement during this time frame, or does Cardinal | |
| | 143:17 reject that statement? | |
| 143:20 - 143:20 | Norris, Jennifer 08-07-2018 (00:00:01) | NJ01-.190 |
| | 143:20 A. I think it's a fair statement. | |
| 145:2 - 145:12 | Norris, Jennifer 08-07-2018 (00:00:24) | NJ01-.45 |
| | 145:2 Q. Well, you'll notice under C, it asks for | |
| | 145:3 the past and present interpretation, compliance, | |
| | 145:4 and agreement and/or disagreement with the Dear | |
| | 145:5 Registrant letters from the DEA. And this is a | |
| | 145:6 Dear Registrant letter from the DEA. We can agree | |
| | 145:7 with that, correct? | |
| | 145:8 A. Correct. | |
| | 145:9 Q. So I want to know if Cardinal agrees -- | |
| | 145:10 not in your personal capacity. I want to know if | |
| | 145:11 Cardinal agrees with the statement that "The CSA | |
| | 145:12 was designed by Congress to combat diversion." | |
| 146:5 - 146:6 | Norris, Jennifer 08-07-2018 (00:00:04) | NJ01-.46 |
| | 146:5 Q. Does Cardinal agree or disagree that the | |
| | 146:6 CSA was designed to combat diversion? | |
| 146:9 - 146:10 | Norris, Jennifer 08-07-2018 (00:00:02) | NJ01-.195 |
| | 146:9 A. I agree that that's the statement that's | |
| | 146:10 made here. | |
| 148:14 - 149:2 | Norris, Jennifer 08-07-2018 (00:00:58) | NJ01-.47 |
| | 148:14 Is Cardinal required to take reasonable | |
| | 148:15 steps to ensure that the registration isn't being | |
| | 148:16 utilized as a source of diversion? | |
| | 148:17 A. I don't recall that being anywhere in | |

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148:18 the statute or the regulations. Cardinal Health's
 148:19 obligation is to comply with the statute,
 148:20 regulations, and guidance provided by the DEA.
 148:21 Q. So -- and I understand your response,
 148:22 but now I'm asking you whether Cardinal has to
 148:23 take reasonable steps to ensure that the
 148:24 registration is not being utilized as a source of
 149:1 diversion.

149:2 A. That is a statement in this letter.

149:22 - 150:21

Norris, Jennifer 08-07-2018 (00:01:15)

NJ01-.48

149:22 Q. And does that mean they have to take
 149:23 steps to prevent their registration from being
 149:24 used as a source of diversion; yes or no?

150:1 A. That is guidance provided by the DEA.

150:2 Q. So being that this letter is guidance
 150:3 provided by the DEA, then the answer is yes,
 150:4 Cardinal has to take steps to prevent its
 150:5 registration from being used as a source of
 150:6 diversion, correct?

150:7 A. Generally, yes.

150:8 Q. Generally, yes, or yes?

150:9 A. Generally, yes, in accordance with the
 150:10 statute, the regulations, and the guidance
 150:11 provided by the DEA.

150:12 Q. Well, you've told me that several times.

150:13 And then I asked the follow-up, being that this
 150:14 letter is guidance from the DEA, you would agree
 150:15 with that, correct?

150:16 A. Um-hmm, yes.

150:17 Q. Cardinal agrees that this September 27,
 150:18 2006 letter provided by Rannazzisi, who was at the
 150:19 DEA, is providing guidance to the wholesale
 150:20 distributor industry, correct?

150:21 A. Correct.

151:5 - 151:21

Norris, Jennifer 08-07-2018 (00:00:41)

NJ01-.49

151:5 Q. Read the rest
 151:6 of that paragraph for me, please.

151:7 A. "Distributors are, of course, one of the
 151:8 key components in the distribution chain. If the
 151:9 closed system is to function properly, as Congress

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| | 151:10 envisioned, distributors must be vigilant in 151:11 deciding whether a prospective customer can be 151:12 trusted to deliver controlled substances only for 151:13 lawful purposes." 151:14 "This responsibility is critical as 151:15 Congress has expressly declared that the illegal 151:16 distribution of controlled substances has a 151:17 substantial and detrimental effect on the health 151:18 and general welfare of the American people." 151:19 Q. And Cardinal agrees and accepts that 151:20 distributors are one of the key components in the 151:21 distribution chain; is that right? | |
| 151:23 - 152:3 | Norris, Jennifer 08-07-2018 (00:00:18) 151:23 A. Yes. 151:24 Q. And that the distributors must be 152:1 vigilant in deciding whether a prospective 152:2 customer can be trusted to deliver controlled 152:3 substances only for lawful purposes; correct? | NJ01-.197 |
| 152:5 - 152:6 | Norris, Jennifer 08-07-2018 (00:00:05) 152:5 A. In maintaining effective controls 152:6 against diversion, yes. | NJ01-.196 |
| 153:9 - 153:15 | Norris, Jennifer 08-07-2018 (00:00:15) 153:9 Q. And as we talked earlier, Cardinal has 153:10 an affirmative obligation to maintain effective 153:11 controls against diversion, correct? 153:12 A. Correct. 153:13 Q. That's separate from the suspicious 153:14 order regulation; isn't that true? 153:15 A. Correct. | NJ01-.50 |
| 154:1 - 154:3 | Norris, Jennifer 08-07-2018 (00:00:08) 154:1 Q. Okay. So the requirement to maintain 154:2 effective controls against diversion means we have 154:3 to try to prevent diversion; is that correct? | NJ01-.51 |
| 154:6 - 154:8 | Norris, Jennifer 08-07-2018 (00:00:04) 154:6 A. Cardinal Health has an obligation to 154:7 maintain those effective controls against 154:8 diversion. | NJ01-.198 |
| 156:21 - 158:2 | Norris, Jennifer 08-07-2018 (00:01:24) 156:21 this is Norris 24. 156:22 And for the record, this is Plaintiff's | NJ01-.52 |

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156:23 Exhibit 14.

156:24

157:1 BY MR. FULLER:

157:2 Q. Ms. Norris, have you ever seen this

157:3 document before?

157:4 A. I have not.

157:5 Q. And I'll represent to you that it is

157:6 from the United States District Court, District of

157:7 Arizona.

157:8 Do you see that?

157:9 A. I see that.

157:10 Q. And it's a case in which Arizona

157:11 Pharmacy, LLC sued Cardinal Health 110, Inc., et

157:12 al. And this document is actually Defendant

157:13 Cardinal's -- Cardinal Health 110, Inc., and

157:14 Cardinal Health 411, Inc.'s Response to

157:15 Plaintiff's Hearing Brief.

157:16 And what I'm going to tell you is that

157:17 the basis of this action is that Arizona Pharmacy,

157:18 LLC filed a lawsuit requesting a restraining order

157:19 against Cardinal for stopping shipments. Okay?

157:20 A. Mm-hmm, yes.

157:21 Q. And this is Cardinal's response to that

157:22 temporary restraining request, okay?

157:23 A. Okay.

157:24 Q. So it was written by Cardinal's lawyers

158:1 and filed in the Federal District Court in

158:2 Arizona.

159:4 - 159:17

Norris, Jennifer 08-07-2018 (00:00:30)

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159:4 Q. So if you'll turn to page

159:5 6.

159:6 A. Yes.

159:7 Q. And you've had a chance to review this

159:8 document, at least most of it, correct?

159:9 A. Just now, yes.

159:10 Q. Yes, ma'am. And it is practically what

159:11 I -- well, I say practically. It is what I

159:12 explained to you. It's an action by a pharmacy

159:13 or -- a former customer of Cardinal because they

159:14 cut -- Cardinal cut them off in trying to get a

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| 159:15 - 159:21 | <p>159:15 restraining order to continue shipments of 159:16 controlled Schedule II substances, opioids, 159:17 correct?</p> <p>Norris, Jennifer 08-07-2018 (00:00:07)</p> <p>159:19 A. The last piece, the specifics aren't 159:20 included here, but the distribution of controlled 159:21 substances I believe is what is at issue.</p> | NJ01--199 |
| 161:9 - 161:23 | <p>Norris, Jennifer 08-07-2018 (00:00:47)</p> <p>161:9 Q. And the lawyer in this brief goes on to 161:10 say, "Any emphasis on whether the Plaintiff is 161:11 actually diverting controlled substances is a red 161:12 herring that has no bearing on whether its 161:13 ordering pattern indicates -- or its ordering 161:14 patterns indicate that it might be engaged in 161:15 diversion." 161:16 Do you agree with that statement, ma'am? 161:17 A. One of the ways that Cardinal Health has 161:18 determined whether a customer poses an 161:19 unreasonable risk of diversion is to look at 161:20 ordering patterns and determine whether those are 161:21 similar to other customers who we have terminated 161:22 for diverting. That was an element of our 161:23 program, an anti-diversion program.</p> | NJ01--54 |
| 163:18 - 163:21 | <p>Norris, Jennifer 08-07-2018 (00:00:11)</p> <p>163:18 Q. Cardinal's obligation to maintain 163:19 effective controls against diversion doesn't mean 163:20 it has to actually go out and prove that the 163:21 drugstore or pharmacy is diverting?</p> | NJ01--55 |
| 163:24 - 164:4 | <p>Norris, Jennifer 08-07-2018 (00:00:15)</p> <p>163:24 A. Correct. 164:1 Q. Okay. And what Cardinal is attempting 164:2 to do is to operate in the safest way possible 164:3 when it's dealing with controlled substances; is 164:4 that true?</p> | NJ01--200 |
| 164:6 - 164:12 | <p>Norris, Jennifer 08-07-2018 (00:00:17)</p> <p>164:6 A. Cardinal Health takes very seriously its 164:7 obligations related to all of the work it 164:8 provides, but also in regard to its distributing 164:9 of controlled substances, yes. 164:10 Q. And it wants to do it the safest way</p> | NJ01--203 |

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| 164:15 - 164:19 | <p>164:11 possible; one, for the general public and, two, to</p> <p>164:12 comply with the regulations; is that fair?</p> <p>Norris, Jennifer 08-07-2018 (00:00:10)</p> <p>164:15 A. Cardinal Health wants to ensure that</p> <p>164:16 it's complying with the obligations under the</p> <p>164:17 statute and the guidance.</p> <p>164:18 Q. Does it also want to ensure that it does</p> <p>164:19 what it can to prevent the public from harm?</p> | NJ01--202 |
| 164:22 - 165:5 | <p>Norris, Jennifer 08-07-2018 (00:00:14)</p> <p>164:22 A. I don't know that Cardinal owes a duty</p> <p>164:23 to the public regarding that. Cardinal Health has</p> <p>164:24 an obligation to comply with its obligations under</p> <p>165:1 the law and the guidelines --</p> <p>165:2 Q. And I'm just --</p> <p>165:3 A. -- guidance.</p> <p>165:4 Q. I'm sorry. Go ahead.</p> <p>165:5 A. Guidance instead of guidelines. Sorry.</p> | NJ01--201 |
| 166:4 - 166:5 | <p>Norris, Jennifer 08-07-2018 (00:00:04)</p> <p>166:4 Q. Does Cardinal not feel that it has an</p> <p>166:5 obligation to the general public?</p> | NJ01--56 |
| 166:8 - 166:15 | <p>Norris, Jennifer 08-07-2018 (00:00:19)</p> <p>166:8 A. Cardinal Health does not have an</p> <p>166:9 obligation to the general public. Cardinal Health</p> <p>166:10 has an obligation to perform its duties in</p> <p>166:11 accordance with the law, the statute, regulations,</p> <p>166:12 and guidance.</p> <p>166:13 Q. And I got it. So the answer is no,</p> <p>166:14 Cardinal Health does not believe it has an</p> <p>166:15 obligation to the general public, correct?</p> | NJ01--205 |
| 166:18 - 166:18 | <p>Norris, Jennifer 08-07-2018 (00:00:01)</p> <p>166:18 A. No.</p> | NJ01--204 |
| 166:19 - 166:20 | <p>Norris, Jennifer 08-07-2018 (00:00:03)</p> <p>166:19 Q. No, that's not correct, or no, you agree</p> <p>166:20 with me?</p> | NJ01--105 |
| 166:23 - 167:1 | <p>Norris, Jennifer 08-07-2018 (00:00:09)</p> <p>166:23 Q. Let me ask it a different way. Yes or</p> <p>166:24 no, does Cardinal have a general obligation to</p> <p>167:1 protect the public?</p> | NJ01--207 |
| 167:4 - 167:6 | <p>Norris, Jennifer 08-07-2018 (00:00:07)</p> <p>167:4 A. Cardinal Health has an obligation to</p> | NJ01--206 |

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| 171:21 - 171:23 | <p>167:5 comply with the laws that apply to the services it 167:6 provides.</p> <p>Norris, Jennifer 08-07-2018 (00:00:08)</p> <p>171:21 Do you agree that on September 27, 2006, 171:22 Cardinal Health got instructions with a new 171:23 requirement called the shipping requirement?</p> | NJ01--57 |
| 172:1 - 172:4 | <p>Norris, Jennifer 08-07-2018 (00:00:06)</p> <p>172:1 A. Yes. 172:2 Q. And from that point forward, that was 172:3 the law in the United States of America according 172:4 to Cardinal?</p> | NJ01--212 |
| 172:6 - 172:11 | <p>Norris, Jennifer 08-07-2018 (00:00:16)</p> <p>172:6 A. From that point forward, that was the 172:7 guidance the DEA was providing to Cardinal Health 172:8 regarding its obligations. 172:9 Q. And according to the DEA, if you did not 172:10 follow this guidance, you may be engaging in 172:11 unlawful conduct?</p> | NJ01--211 |
| 172:14 - 172:19 | <p>Norris, Jennifer 08-07-2018 (00:00:20)</p> <p>172:14 A. We may be engaging in activities that do 172:15 not comply with the statute, regulations, and 172:16 DEA's guidance. 172:17 Q. Okay. Has Cardinal Health since 172:18 September 27, 2006 accepted the duties set forth 172:19 in the Dear Registrant letter?</p> | NJ01--210 |
| 172:21 - 173:3 | <p>Norris, Jennifer 08-07-2018 (00:00:18)</p> <p>172:21 A. Generally, yes, as further modified by 172:22 additional DEA guidance. 172:23 Q. Very good. So sitting here today, you 172:24 can tell me that as of September 27, 2006, 173:1 Cardinal Health's position has been that it will 173:2 comply moving forward with the Dear Registrant 173:3 letter?</p> | NJ01--209 |
| 173:5 - 173:10 | <p>Norris, Jennifer 08-07-2018 (00:00:16)</p> <p>173:5 A. Generally speaking, yes, as modified by 173:6 the additional guidance Cardinal Health received 173:7 over time. 173:8 Q. Is there anything set forth in the 2006 173:9 Dear Registrant letter that Cardinal Health 173:10 objects to, disagrees with, or takes exception to?</p> | NJ01--208 |

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| 173:17 - 174:1 | Norris, Jennifer 08-07-2018 (00:00:21) 173:17 A. Generally speaking, at least one of the 173:18 issues that Cardinal Health took umbrage with was 173:19 that -- the idea that the shipping requirement had 173:20 always existed. 173:21 Q. Okay. 173:22 A. It had not. 173:23 Q. Okay. So do you believe that within the 173:24 2006 registrant letter, there is a statement 174:1 imposing a shipping requirement? | NJ01--58 |
| 174:4 - 174:4 | Norris, Jennifer 08-07-2018 (00:00:01) 174:4 A. Generally speaking, yes. | NJ01--213 |
| 174:16 - 174:20 | Norris, Jennifer 08-07-2018 (00:00:22) 174:16 Q. Okay. So I'm now going to have marked 174:17 the next sequential exhibit, which is the 174:18 Deposition Exhibit 15, but is Norris 15, which 174:19 I'll represent to you is the December 27, 2007 DEA 174:20 letter that you just referenced. | NJ01--59 |
| 183:19 - 183:24 | Norris, Jennifer 08-07-2018 (00:00:14) 183:19 Q. Now what I'm going to ask 183:20 you to go and look at is -- you're familiar with 183:21 the amicus brief in Masters Pharmaceutical? 183:22 A. I am. 183:23 Q. Did you participate in writing it? 183:24 A. I did not. | NJ01--214 |
| 185:2 - 185:4 | Norris, Jennifer 08-07-2018 (00:00:05) 185:2 So are you aware of whether or not 185:3 Cardinal Health approved the amicus brief prior to 185:4 filing? | NJ01--225 |
| 185:7 - 185:8 | Norris, Jennifer 08-07-2018 (00:00:04) 185:7 A. It provided commentary. I don't know if 185:8 that commentary rose to the level of approval. | NJ01--226 |
| 185:12 - 186:20 | Norris, Jennifer 08-07-2018 (00:01:56) 185:12 Q. I'm going to have marked now Deposition 185:13 Exhibit 16. I'm going to hand it to you. It is 185:14 Bates-stamped ABDCMDL00275057. It is the 185:15 Healthcare Distribution Management Association's 185:16 Executive Committee Meeting summary from June 12, 185:17 2016 held in Colorado Springs, Colorado. 185:18 Have you seen or are you familiar with | NJ01--216 |

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185:19 this document?

185:20 A. I am not. I have not.

185:21 Q. When you flip to page 2, you'll notice

185:22 that it says June 12, 2016, or on the front page

185:23 as well.

185:24 A. Yes, it says June 12, 2016.

186:1 Q. The first thing I'd like to direct your

186:2 attention to is the very beginning on page 4. And

186:3 you'll notice at the top, these are the minutes

186:4 from the Pebble Beach, California Executive

186:5 Committee meeting. And you'll see in

186:6 attendance -- well, you see the second person who

186:7 is in attendance?

186:8 A. Yes.

186:9 Q. Who is that?

186:10 A. John Giacomini, Vice Chairman.

186:11 Q. Of?

186:12 A. CEO, Pharmaceutical Segment, Cardinal

186:13 Health, Inc.

186:14 Q. So Cardinal Health, Inc. sent their CEO

186:15 of the Pharmaceutical Segment to this meeting,

186:16 correct?

186:17 A. Well, I believe John serves on the

186:18 Executive Committee.

186:19 Q. Cardinal Health sent its CEO to attend

186:20 this meeting?

186:22 - 188:7

Norris, Jennifer 08-07-2018 (00:01:43)

NJ01-.217

186:22 A. The CEO of the Pharmaceutical Segment

186:23 who was on the Executive Committee.

186:24 Q. Of HDMA?

187:1 A. Yes.

187:2 Q. Now, if you look down at the bottom at

187:3 the Welcome and Administrative Matters, actually

187:4 Mr. Giacomini from Cardinal Health chaired this

187:5 meeting, correct?

187:6 A. That's what it appears from the

187:7 language, yes.

187:8 Q. Now, if you flip to the next page under

187:9 paragraph C, Legal Issues, the first item is the

187:10 Masters Pharmaceuticals case.

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187:11 Would you read aloud what the summary
 187:12 says?
 187:13 A. "The status of the Masters litigation as
 187:14 well as discussion of the draft amicus curiae
 187:15 brief to be possibly filed on behalf of HDMA will
 187:16 be discussed later in the meeting led by President
 187:17 Gray and HDMA General Counsel Gallenagh."
 187:18 Q. Now, if you flip to the next page,
 187:19 you'll see that there is a provision -- no. We're
 187:20 going to go down to the Masters first. You're
 187:21 going to see that under Masters amicus brief, it
 187:22 states, "The central theme of the draft brief is
 187:23 that DEA must follow statutory and regulatory
 187:24 requirements regarding the imposition of
 188:1 suspicious order reporting. Notice-and-comment
 188:2 rule-making required."

188:3 Do you see that?

188:4 A. I see that.

188:5 Q. So when you look below at the actions,
 188:6 you'll see that it was subject to a vote and
 188:7 approved to submit an amicus brief, agreed?

188:9 - 188:22

Norris, Jennifer 08-07-2018 (00:00:35)

NJ01-.62

188:9 A. The executive committee approved filing
 188:10 of the brief.

188:11 Q. Right. Now, flip to the previous page.
 188:12 And the interesting thing is that they're talking
 188:13 about the West Virginia litigation.

188:14 A. I'm sorry. Flip to what page? I
 188:15 apologize.

188:16 Q. That's all right. The previous page.
 188:17 It will be 5 at the bottom of the page, I think.

188:18 A. Yes.

188:19 Q. And you'll see that there's a provision
 188:20 in there about the West Virginia litigation under
 188:21 Item 4. And the paragraph at the bottom of the
 188:22 page --

189:1 - 189:24

Norris, Jennifer 08-07-2018 (00:01:00)

NJ01-.63

189:1 A. Okay.

189:2 Q. Now, the last paragraph that's on that
 189:3 page starting with "Counsel Frank," will you read

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189:4 that aloud, please?

189:5 A. "Counsel Frank characterized the series
189:6 of DEA and state actions as efforts to improperly
189:7 expand distributors' responsibilities beyond
189:8 simply reporting suspicious orders to actually
189:9 preventing the distribution of controlled
189:10 substances to licensed dispensers. States are
189:11 bringing these actions for similar reasons but
189:12 also in an effort to collect monetary damages and
189:13 penalties."

189:14 Q. So now you understand my confusion from
189:15 this morning when it seems as if Cardinal Health
189:16 is participating in an amicus brief and
189:17 characterizing the DEA and the state actions as
189:18 actually requiring you, Cardinal Health, to
189:19 prevent distribution of controlled substances to
189:20 licensed dispensers.

189:21 So, again, my question goes back to it.
189:22 Prior to the release of Masters Pharmaceutical,
189:23 are you sure Cardinal Health hadn't flip-flopped
189:24 its positions regarding the shipping requirement?

190:3 - 190:12

Norris, Jennifer 08-07-2018 (00:00:23)

NJ01-.218

190:3 A. No, I do not believe Cardinal Health
190:4 flip-flopped its position. We designed our
190:5 program to comply with the shipping requirement.
190:6 The fact that we participated in these briefs
190:7 doesn't mean that we were not complying with the
190:8 requirements as we understood the DEA to have
190:9 provided us guidance for.

190:10 Q. Understood. We'll get to the brief now,
190:11 which is going to be marked as Exhibit 17. It's
190:12 Norris 20.

190:22 - 191:7

Norris, Jennifer 08-07-2018 (00:00:19)

NJ01-.64

190:22 Q. Have you reviewed this document prior to
190:23 today?

190:24 A. I have.

191:1 Q. You're aware that it's one of the items
191:2 listed in the 30(b)(6) notice?

191:3 A. I am.

191:4 Q. This is the amicus brief that was

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| 191:5 | approved by HDMA during a meeting chaired by | |
| 191:6 | Cardinal Health's CEO. | |
| 191:7 | A. Approved to be filed, yes. | |
| 192:21 - 193:11 | Norris, Jennifer 08-07-2018 (00:00:40) | NJ01-.65 |
| 192:21 | Q. All right. Now, if you flip to page 5, | |
| 192:22 | Norris 20-005. | |
| 192:23 | A. Yes. | |
| 192:24 | Q. So at the very -- the first highlighted | |
| 193:1 | provision in there, I'll read it aloud to make | |
| 193:2 | this quicker. "The public health dangers | |
| 193:3 | associated with diversion and abuse of controlled | |
| 193:4 | prescription drugs have been well recognized by | |
| 193:5 | Congress, DEA, public health authorities, and | |
| 193:6 | others, including HDMA and NACDS and their | |
| 193:7 | members." | |
| 193:8 | Do you see that? | |
| 193:9 | A. I do. | |
| 193:10 | Q. Sitting here today, does Cardinal Health | |
| 193:11 | ratify and agree with that statement? | |
| 193:14 - 193:15 | Norris, Jennifer 08-07-2018 (00:00:03) | NJ01-.219 |
| 193:14 | A. Cardinal Health agrees with this | |
| 193:15 | statement. | |
| 194:13 - 194:15 | Norris, Jennifer 08-07-2018 (00:00:07) | NJ01-.66 |
| 194:13 | Q. Okay. So how about this: Let's play | |
| 194:14 | true or false. I'll read the sentence, and you | |
| 194:15 | say true or say false, okay? | |
| 194:18 - 195:1 | Norris, Jennifer 08-07-2018 (00:00:19) | NJ01-.67 |
| 194:18 | A. Okay. | |
| 194:19 | Q. "The public health dangers associated | |
| 194:20 | with the diversion and abuse of controlled | |
| 194:21 | prescription drugs have been well recognized by | |
| 194:22 | Congress, DEA, public health authorities and | |
| 194:23 | others, including HDMA and NACDS and their | |
| 194:24 | members." | |
| 195:1 | True or false? | |
| 195:4 - 195:10 | Norris, Jennifer 08-07-2018 (00:00:21) | NJ01-.223 |
| 195:4 | A. True. | |
| 195:5 | Q. "HDMA and NACDS members not only have | |
| 195:6 | statutory and regulatory responsibilities to guard | |
| 195:7 | against diversion of controlled prescription drugs | |

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| 195:13 - 195:17 | <p>195:8 but undertakes such efforts as responsible members 195:9 of society." 195:10 True or false? Norris, Jennifer 08-07-2018 (00:00:09)</p> <p>195:13 A. I disagree with the "undertake such 195:14 efforts as responsible members of society." We 195:15 have a statutory and regulatory obligation that we 195:16 comply with. 195:17 Q. So it's false?</p> | NJ01--222 |
| 195:20 - 196:1 | <p>Norris, Jennifer 08-07-2018 (00:00:14)</p> <p>195:20 A. No, not in total. 195:21 Q. You're sitting here on behalf of 195:22 Cardinal Health today, not in-house counsel. 195:23 Does Cardinal Health accept or reject 195:24 the fact that as responsible members of society, 196:1 they have a duty to guard against diversion?</p> | NJ01--220 |
| 196:4 - 196:6 | <p>Norris, Jennifer 08-07-2018 (00:00:06)</p> <p>196:4 A. Cardinal Health has regulatory and legal 196:5 obligations that it must comply with in performing 196:6 its services, which is what it does.</p> | NJ01--221 |
| 197:12 - 198:4 | <p>Norris, Jennifer 08-07-2018 (00:00:45)</p> <p>197:12 Q. Now, if you go down to the next part, 197:13 you'll see where it says "But in certain recent 197:14 pronouncements." 197:15 Would you read that? 197:16 A. Yes. 197:17 Q. It says, "DEA has required distributors 197:18 not only to report suspicious orders, but to 197:19 investigate orders; as an example, interrogating 197:20 pharmacies and physicians and take action to halt 197:21 orders before they are filed. 197:22 "Those added obligations would 197:23 significantly expand the report only duty of 197:24 distributors under the longstanding regulatory 198:1 scheme and impose impractical obligations on 198:2 distributors." 198:3 Does Cardinal Health agree or disagree 198:4 with that statement?</p> | NJ01--68 |
| 198:7 - 198:20 | <p>Norris, Jennifer 08-07-2018 (00:00:36)</p> <p>198:7 A. Cardinal Health agrees that the</p> | NJ01--228 |

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| | 198:8 reporting obligation was a new obligation imposed 198:9 by -- sorry. I misspoke. The shipping obligation 198:10 was a new obligation imposed by the DEA which 198:11 Cardinal Health complied with once they were made 198:12 aware of it. 198:13 Q. This is -- listen. This amicus brief 198:14 was submitted in what year? 198:15 A. 2016, '17. 198:16 Q. Okay. And what year did Cardinal Health 198:17 receive the shipping requirement Dear Registrant 198:18 letter? 198:19 A. Initially in 2006. 198:20 Q. So a decade earlier, correct? | |
| 198:22 - 198:22 | Norris, Jennifer 08-07-2018 (00:00:01) | NJ01--227 |
| | 198:22 A. Correct. | |
| 198:23 - 199:2 | Norris, Jennifer 08-07-2018 (00:00:11) | NJ01--106 |
| | 198:23 Q. This document submitted by Cardinal 198:24 Health's trade group seems to indicate a rejection 199:1 of the shipping requirement ten days before the 199:2 Masters Pharmaceutical case was released. | |
| 199:5 - 199:10 | Norris, Jennifer 08-07-2018 (00:00:25) | NJ01--229 |
| | 199:5 A. I believe when you read the brief in 199:6 total, it refers clearly to the 2006 DEA letters. 199:7 So the -- if there is an insinuation that they are 199:8 somehow saying that it's new then in 2016, '17, 199:9 that's not the -- that's not what the entire 199:10 letter says. | |
| 199:11 - 199:12 | Norris, Jennifer 08-07-2018 (00:00:08) | NJ01--69 |
| | 199:11 Q. Well, let's go to page 9 where the brief 199:12 literally says, "Nothing" -- | |
| 199:21 - 200:3 | Norris, Jennifer 08-07-2018 (00:00:28) | NJ01--70 |
| | 199:21 Q. "Nothing in Sections 1301.72 to 1301.76 199:22 requires distributors to investigate the 199:23 legitimacy of orders or to halt shipment of any 199:24 orders deemed to be suspicious." 200:1 That's the position Cardinal Health was 200:2 taking through its trade group in June of 2016 -- 200:3 2017. That's not true, is it? | |
| 200:6 - 200:8 | Norris, Jennifer 08-07-2018 (00:00:06) | NJ01--224 |
| | 200:6 A. It is true. There is nothing in the | |

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| 201:11 - 201:14 | <p>200:7 regulation. The guidance provided by the DEA 200:8 provided the shipping requirements.</p> <p>Norris, Jennifer 08-07-2018 (00:00:10)</p> <p>201:11 Q. The D.C. Circuit Court of Appeals in 201:12 Masters Pharmaceutical affirmed the position taken 201:13 by the DEA in its 2006 and 2007 Dear Registrant 201:14 letters --</p> | NJ01-.71 |
| 201:16 - 201:16 | <p>Norris, Jennifer 08-07-2018 (00:00:00)</p> <p>201:16 Q. -- agreed?</p> | NJ01-.72 |
| 201:19 - 201:21 | <p>Norris, Jennifer 08-07-2018 (00:00:05)</p> <p>201:19 A. It affirmed that there is a shipping 201:20 requirement.</p> <p>201:21 Q. So the answer to my question is yes?</p> | NJ01-.73 |
| 201:24 - 202:20 | <p>Norris, Jennifer 08-07-2018 (00:01:11)</p> <p>201:24 A. Yes. They affirmed there is a shipping 202:1 requirement.</p> <p>202:2 Q. Now, you testified earlier that there 202:3 were -- that the DEA told Cardinal Health that the 202:4 duty was report only prior to 2006.</p> <p>202:5 Do you remember that testimony?</p> <p>202:6 A. I don't know that I said the DEA told 202:7 us. It was our understanding that it was report 202:8 only based on the guidance we had received from 202:9 the DEA prior to 2006.</p> <p>202:10 Q. I've got to write that word down.</p> <p>202:11 Guidance.</p> <p>202:12 What guidance did you receive? Is it in 202:13 writing somewhere?</p> <p>202:14 A. There's the 1998 DEA report to the 202:15 Attorney General that speaks to the required 202:16 reporting.</p> <p>202:17 Q. So wait a minute. You're relying upon a 202:18 1998 letter to the Attorney General as the basis 202:19 for compliance with your duty to prevent 202:20 diversion, yes?</p> | NJ01-.74 |
| 203:4 - 203:15 | <p>Norris, Jennifer 08-07-2018 (00:00:30)</p> <p>203:4 Q. So I'm asking you again. Other than the 203:5 1998 letter, are there any other written documents 203:6 that you rely upon as guidance that your duty was 203:7 report only?</p> | NJ01-.230 |

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| | 203:8 A. At this time, I'm not aware of any 203:9 specific other written documents. 203:10 Q. Okay. This 1998 letter, who was it to 203:11 and from? 203:12 A. It wasn't a letter. It was a report by 203:13 the DEA to the Attorney General. 203:14 Q. Of the United States? 203:15 A. Yes. | |
| 209:9 - 209:12 | Norris, Jennifer 08-07-2018 (00:00:24) 209:9 Q. I'm going to have marked next which is 209:10 Plaintiff's Exhibit 18. It is Bates-stamped 209:11 ABDC_MDL_00278063. And I'm going to show it to 209:12 you and ask if you've seen this document before. | NJ01-.76 |
| 210:24 - 212:4 | Norris, Jennifer 08-07-2018 (00:01:08) 210:24 Q. I'm not going to spend a tremendous 211:1 amount of time on this document. 211:2 A. That's fine. I'm sorry. I've never 211:3 seen this document before, so I'm not even clear 211:4 exactly what the purpose of it is. So I just 211:5 wanted to make sure I at least -- 211:6 Q. I'll walk you through some of the 211:7 highlights. 211:8 Will you identify the title of this 211:9 document? 211:10 A. The title on the front page is "Crisis 211:11 Playbook: An Interactive Guide to Crisis 211:12 Communications." 211:13 Q. And it's published by whom? 211:14 A. HDMA is listed on the front. 211:15 Q. And, again, this is the trade 211:16 organization which includes as its members, and on 211:17 the executive committee, Cardinal Health? 211:18 A. Yes. 211:19 Q. And if you look on page 2, you'll notice 211:20 that the Core Crisis Team is identified, and it 211:21 appears to be internal employees of HDMA. And 211:22 underneath it is the executive committee, and at 211:23 the time, it identifies Mark -- or Mike Kaufmann 211:24 from Cardinal Health, agreed? 212:1 A. Agreed. | NJ01-.77 |

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| 212:2 - 212:11 | <p>212:2 Q. On page 3, it identifies the objectives</p> <p>212:3 of this Crisis Playbook, and would you read the</p> <p>212:4 first two.</p> <p>Norris, Jennifer 08-07-2018 (00:00:09)</p> <p>212:8 A. "Provide clear guidelines for</p> <p>212:9 classifying crisis situations. Define roles and</p> <p>212:10 responsibilities in a crisis situation."</p> <p>212:11 Q. And read the very last entry point.</p> | NJ01-.78 |
| 212:13 - 212:17 | <p>Norris, Jennifer 08-07-2018 (00:00:12)</p> <p>212:13 A. "Have ready-to-use response materials on</p> <p>212:14 hand for high risk scenarios."</p> <p>212:15 Q. Now, this was created in the year 2013,</p> <p>212:16 and as Cardinal Health, are you familiar with it</p> <p>212:17 at all?</p> | NJ01-.231 |
| 212:20 - 213:5 | <p>Norris, Jennifer 08-07-2018 (00:00:30)</p> <p>212:20 Q. If you flip to page 4 where it says</p> <p>212:21 "Communicate Early." Can you read that aloud?</p> <p>212:22 A. "Getting ahead of an issue, or getting</p> <p>212:23 your message across as early as possible, is</p> <p>212:24 always -- almost always the best way to minimize</p> <p>213:1 damage from a negative event."</p> <p>213:2 Q. And then over where it says "Express</p> <p>213:3 emotion appropriately," would you read that aloud?</p> <p>213:4 A. "The public demands more than the letter</p> <p>213:5 of the law or minimum adherence to regulations."</p> | NJ01-.232 |
| 214:8 - 214:12 | <p>Norris, Jennifer 08-07-2018 (00:00:14)</p> <p>214:8 Q. So as of 2013, this crisis management</p> <p>214:9 plan provided by HDMA to its members includes a</p> <p>214:10 consideration of being able to drive the narrative</p> <p>214:11 in a crisis.</p> <p>214:12 Do you see that?</p> | NJ01-.79 |
| 214:14 - 214:21 | <p>Norris, Jennifer 08-07-2018 (00:00:21)</p> <p>214:14 A. I see a comment that says, "If you</p> <p>214:15 announce first, to what extent will you be able to</p> <p>214:16 drive the narrative?"</p> <p>214:17 Q. If you flip to the next page, you'll see</p> <p>214:18 in 2013, HDMA has already used this chart to run a</p> <p>214:19 risk analysis of the controlled substance</p> <p>214:20 diversion issue.</p> <p>214:21 Do you see that?</p> | NJ01-.235 |

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| 214:23 - 215:2 | Norris, Jennifer 08-07-2018 (00:00:10) 214:23 A. I see the bullet point. 214:24 Q. Are you aware of whether or not HDMA 215:1 circulated to Cardinal Health bullet points to 215:2 discuss diversion lawsuits or diversion issues? | NJ01--234 |
| 215:4 - 215:4 | Norris, Jennifer 08-07-2018 (00:00:01) 215:4 A. I am not. | NJ01--233 |
| 216:6 - 216:14 | Norris, Jennifer 08-07-2018 (00:00:21) 216:6 Q. The last three digits are 081, 216:7 Third-Party Outreach. It says, "Identify 216:8 potential third parties who could speak 216:9 knowledgably about the issue by noting individuals 216:10 or groups who have commented on the issue in news 216:11 coverage, at conferences, or in published 216:12 materials." 216:13 Are you aware of any such coordinated 216:14 activity? | NJ01--80 |
| 216:16 - 217:1 | Norris, Jennifer 08-07-2018 (00:00:48) 216:16 A. I am not. 216:17 MR. FARRELL: Exhibit page 24? 216:18 MS. VELDMAN: 86. 216:19 BY MR. FARRELL: 216:20 Q. 086 on the Bates stamp. This Crisis 216:21 Playbook identifies six issues related to 216:22 diversion. If you flip to the next page, Scenario 216:23 1 is a DEA Registration Suspension. 216:24 A. I see "Scenario 1: DEA Registration 217:1 Suspension." | NJ01--236 |
| 217:19 - 217:21 | Norris, Jennifer 08-07-2018 (00:00:10) 217:19 Q. Has Cardinal Health engaged in proactive 217:20 efforts to shift the message toward misdirected 217:21 DEA enforcement? | NJ01--81 |
| 217:24 - 218:4 | Norris, Jennifer 08-07-2018 (00:00:20) 217:24 A. I do not recall specifically, no. 218:1 Q. If, in fact, Cardinal Health has in the 218:2 past intervening five years attempted to direct 218:3 blame toward the DEA, you would agree that it 218:4 happens to coincide with the 2013 playbook? | NJ01--239 |
| 218:7 - 218:23 | Norris, Jennifer 08-07-2018 (00:01:03) 218:7 A. Just because HDMA published a playbook | NJ01--238 |

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| | <p>218:8 that I know Mike Kaufmann was on the executive</p> <p>218:9 committee does not mean that that's necessarily</p> <p>218:10 how Cardinal Health handled its communications</p> <p>218:11 related to the issue at hand.</p> <p>218:12 Q. If you flip to the next page, "Scenario</p> <p>218:13 1: DEA Registration Suspension," there's a "Tough</p> <p>218:14 Q&A" question. So this is a playbook that HDMA,</p> <p>218:15 your trade group, circulated amongst its members,</p> <p>218:16 including Cardinal Health, and it's how to react</p> <p>218:17 in the media if one of your members gets its</p> <p>218:18 registration suspended.</p> <p>218:19 And one of the tough questions it was</p> <p>218:20 prepping its members for is, if it's asked, "What</p> <p>218:21 is HDMA's perspective on the registration</p> <p>218:22 suspension? Was this action warranted?"</p> <p>218:23 Would you read the next sentence?</p> | |
| 219:2 - 219:11 | <p>Norris, Jennifer 08-07-2018 (00:00:29)</p> <p>219:2 A. "HDMA is not familiar with the</p> <p>219:3 particulars of this situation, but we are</p> <p>219:4 disappointed that the DEA appears to be pursuing a</p> <p>219:5 path of conflict rather than collaboration with</p> <p>219:6 our industry."</p> <p>219:7 Q. So, again, in 2013, this is HDMA</p> <p>219:8 advising its constituents, including Cardinal</p> <p>219:9 Health, to push the message that the DEA's</p> <p>219:10 enforcement actions are paths of conflict rather</p> <p>219:11 than collaboration?</p> | NJ01-.237 |
| 219:14 - 219:16 | <p>Norris, Jennifer 08-07-2018 (00:00:06)</p> <p>219:14 A. It's providing guidance to the HDMA</p> <p>219:15 members that the HDMA members can then choose to</p> <p>219:16 use at their discretion.</p> | NJ01-.164 |
| 222:14 - 222:15 | <p>Norris, Jennifer 08-07-2018 (00:00:04)</p> <p>222:14 Q. So what is Scenario 4 that HDMA is</p> <p>222:15 preparing for back in 2013?</p> | NJ01-.82 |
| 222:17 - 223:1 | <p>Norris, Jennifer 08-07-2018 (00:00:23)</p> <p>222:17 A. The title of the page is "Scenario 4:</p> <p>222:18 Congressional Inquiry."</p> <p>222:19 Q. So five years before Congress subpoenaed</p> <p>222:20 Cardinal Health, McKesson, AmerisourceBergen, H.D.</p> <p>222:21 Smith and Miami-Luken, HDMA was ahead of the wave</p> | NJ01-.163 |

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| | 222:22 and already prepping and preparing and advising 222:23 for media statements regarding a Congressional 222:24 inquiry. 223:1 Do you agree with that? | |
| 223:4 - 223:9 | Norris, Jennifer 08-07-2018 (00:00:10) 223:4 A. The document covers Congressional 223:5 inquiry. And, again, it's guidance to be provided 223:6 to the members that the members can use at their 223:7 discretion. 223:8 Q. Five years before Congress had an 223:9 inquiry? | NJ01-.162 |
| 223:12 - 223:13 | Norris, Jennifer 08-07-2018 (00:00:03) 223:12 A. Yes, five years prior to the inquiry 223:13 you're referencing. | NJ01-.161 |
| 226:3 - 226:13 | Norris, Jennifer 08-07-2018 (00:00:35) 226:3 Q. Does Cardinal have a suspicious order 226:4 monitoring program? 226:5 A. It does. 226:6 Q. And when did it first create it? 226:7 MS. MAINIGI: Objection; time period. 226:8 A. Cardinal Health has had a suspicious 226:9 order monitoring system specifically since about 226:10 2007. 226:11 Q. So prior to 2007, Cardinal Health did 226:12 not have a specific suspicious order monitoring 226:13 program -- | NJ01-.83 |
| 226:15 - 226:15 | Norris, Jennifer 08-07-2018 (00:00:00) 226:15 Q. -- is that correct? | NJ01-.160 |
| 226:18 - 227:10 | Norris, Jennifer 08-07-2018 (00:00:53) 226:18 A. Cardinal Health maintained the program 226:19 as it understood as directed by the DEA to report 226:20 the orders pursuant to the ingredient limit 226:21 reports we talked about this morning, as well as 226:22 the excessive order reports. But as far as an 226:23 electronic suspicious order monitoring system, our 226:24 program evolved in 2007 to include that. 227:1 Q. So prior to 2007, Cardinal was not 227:2 monitoring suspicious orders electronically; can 227:3 we agree on that? 227:4 A. No. Cardinal Health -- the reports were | NJ01-.84 |

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| | <p>227:5 generated electronically, the ingredient limit</p> <p>227:6 reports, as well as the ARCOS reports actually,</p> <p>227:7 but --</p> <p>227:8 (Reporter clarification.)</p> <p>227:9 A. As well as the ARCOS reports. So they</p> <p>227:10 were produced electronically.</p> | |
| 244:11 - 247:4 | <p>Norris, Jennifer 08-07-2018 (00:03:15)</p> <p>244:11 MS. MAINIGI: Mr. Fuller, Ms. Norris has</p> <p>244:12 one clarification that she would like to put on</p> <p>244:13 the record.</p> <p>244:14 MR. FULLER: Okay.</p> <p>244:15 THE WITNESS: I just want to make sure</p> <p>244:16 that I was clear, because I think we were using</p> <p>244:17 "suspicious order monitoring system" and</p> <p>244:18 "suspicious order monitoring program" somewhat</p> <p>244:19 interchangeably, and those are two different</p> <p>244:20 things.</p> <p>244:21 Cardinal Health has had a suspicious</p> <p>244:22 order monitoring program in place since the</p> <p>244:23 inception of the statute, which imposed the</p> <p>244:24 requirements on us to monitor for suspicious</p> <p>245:1 orders.</p> <p>245:2 Q. And does that include the documents that</p> <p>245:3 we looked at, or is that a separate --</p> <p>245:4 A. That's part -- you mean the compliance</p> <p>245:5 policies and procedures, the reporting</p> <p>245:6 requirements?</p> <p>245:7 Q. Yes, ma'am. I'm not sure what you want</p> <p>245:8 to call them. I think it's 19, 21 -- 19, 20, 21,</p> <p>245:9 and 22.</p> <p>245:10 A. Those detailed --</p> <p>245:11 Q. The suspicious ordering monitoring</p> <p>245:12 programs?</p> <p>245:13 A. Yes.</p> <p>245:14 Q. Was there anything else that was sent</p> <p>245:15 out in the suspicious order monitoring programs</p> <p>245:16 other than what's in those documents? Are there</p> <p>245:17 other documents that set out this, quote, unquote,</p> <p>245:18 program?</p> <p>245:19 A. Not to my knowledge during that time</p> | NJ01-.107 |

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245:20 period.

245:21 Q. And these documents were in place up
245:22 until the -- I think the 2006 document we looked
245:23 at; is that right?

245:24 A. They were -- the second packet was dated
246:1 2006.

246:2 Q. Okay. Correct. So are there any other
246:3 documents out there that would set out what
246:4 Cardinal's suspicious order monitoring system or
246:5 program was that you are aware of?

246:6 A. The suspicious order monitoring program,
246:7 not that I'm aware of, no.

246:8 Q. Now, how about the suspicious order
246:9 monitoring systems?

246:10 A. When I refer to the suspicious order
246:11 monitoring system, I'm referring to the
246:12 enhancement to the program that we made in the
246:13 2007 time frame, the electronic order monitoring
246:14 program with thresholds.

246:15 Q. Okay. So prior to 2007 or whenever this
246:16 new upgrade was rolled out, Cardinal did not
246:17 monitor thresholds, correct?

246:18 A. We didn't call them thresholds, but the
246:19 ingredient limit reports acted like a threshold.
246:20 When the customer purchased the amount as
246:21 indicated by the DEA that they wanted reported, we
246:22 reported it, and we had the ingredient -- I'm
246:23 sorry -- the excessive limit reports which were
246:24 guided somewhat in part by dosage limit charts
247:1 that were posted in our cages and vaults that gave
247:2 guidance to appropriate amounts of the particular
247:3 drugs listed that should be ordered by that type
247:4 of customer.

259:21 - 260:12

Norris, Jennifer 08-07-2018 (00:00:47)

NJ01-.158

259:21 Q. So before we release an order, we have
259:22 to make sure we have documentation presumptively
259:23 in some sort of diligence file, or due diligence
259:24 file, before we release it, correct, if it exceeds
260:1 a threshold?

260:2 A. Correct.

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| | 260:3 Q. And if we're not doing that, we're not 260:4 fulfilling our obligation under this policy and 260:5 procedure, correct? 260:6 A. We would not be in compliance with the 260:7 policy if we're not doing what the policy says. 260:8 Q. And if we're not doing our due diligence 260:9 and we're shipping and cutting -- or excuse me -- 260:10 shipping and releasing orders they're going to 260:11 flag as suspicious, we wouldn't be complying with 260:12 the law either, correct? | |
| 260:15 - 260:19 | Norris, Jennifer 08-07-2018 (00:00:20) 260:15 A. We wouldn't be complying with our 260:16 policy, and we would not be complying with the 260:17 obligation under the statute and the relevant 260:18 guidance that the DEA has provided that orders 260:19 identified as suspicious should not be shipped. | NJ01-.159 |
| 264:16 - 264:22 | Norris, Jennifer 08-07-2018 (00:00:18) 264:16 Q. And you would agree with me, would you 264:17 not, that based on the thresholds in the policies 264:18 and procedures that we've looked at, that once an 264:19 entity hits its threshold and has a threshold 264:20 event, it can no longer ship that drug family to 264:21 that same customer, drugstore, or pharmacy, 264:22 correct? | NJ01-.156 |
| 265:1 - 265:4 | Norris, Jennifer 08-07-2018 (00:00:05) 265:1 A. During the applicable monthly accrual 265:2 cycle. 265:3 Q. Correct. 265:4 A. Yes. | NJ01-.157 |
| 268:24 - 269:2 | Norris, Jennifer 08-07-2018 (00:00:06) 268:24 Q. Now, there's a procedure to go through 269:1 for a threshold increase, and that would have to 269:2 be something that was documented; is that correct? | NJ01-.151 |
| 269:4 - 269:22 | Norris, Jennifer 08-07-2018 (00:00:54) 269:4 A. Yes. 269:5 Q. Okay. What type of things generate or 269:6 cause a threshold increase? Are you aware? 269:7 A. I am aware of some of them, yes. 269:8 Q. What type of things would cause or be a 269:9 legitimate threshold increase? | NJ01-.152 |

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| | <p>269:10 A. The customer's business could change.</p> <p>269:11 For example, they have a hospital nextdoor that</p> <p>269:12 had 100 beds. They open up a wing that has an</p> <p>269:13 additional 400 beds. They open up a cancer</p> <p>269:14 center. There's another type of doctor office</p> <p>269:15 that opens down the street, for example.</p> <p>269:16 Q. So some change in the business climate</p> <p>269:17 or the operations? Maybe another pharmacy down</p> <p>269:18 the road went out of business?</p> <p>269:19 A. Yes.</p> <p>269:20 Q. That would be a legitimate reason to</p> <p>269:21 increase a threshold, correct?</p> <p>269:22 A. Yes.</p> | |
| 269:23 - 270:1 | Norris, Jennifer 08-07-2018 (00:00:07) | NJ01-.153 |
| | <p>269:23 Q. Something like Thanksgiving wouldn't</p> <p>269:24 necessarily be a legitimate reason to increase a</p> <p>270:1 threshold, would it?</p> | |
| 270:3 - 270:20 | Norris, Jennifer 08-07-2018 (00:00:58) | NJ01-.154 |
| | <p>270:3 A. There was a period of time --</p> <p>270:4 Q. Go ahead.</p> <p>270:5 A. There was a period of time -- and I'm</p> <p>270:6 thinking of a specific example in the information</p> <p>270:7 that I reviewed -- that based on how many, for</p> <p>270:8 example, Mondays and Tuesdays are in a month,</p> <p>270:9 whether there's a holiday in a month, for example,</p> <p>270:10 Thanksgiving, that could affect the customer's</p> <p>270:11 ordering pattern for that month.</p> <p>270:12 And I believe it was explained in Nick</p> <p>270:13 Rousch's declaration that there might be a</p> <p>270:14 threshold increase to account for that for that</p> <p>270:15 month.</p> <p>270:16 Q. And then the threshold would have to be</p> <p>270:17 reduced back down presumptively, correct? It</p> <p>270:18 wouldn't be a permanent increase?</p> <p>270:19 A. That would be my presumption, because it</p> <p>270:20 was reflecting very specific circumstances.</p> | |
| 276:11 - 277:17 | Norris, Jennifer 08-07-2018 (00:01:44) | NJ01-.148 |
| | <p>276:11 Q. Okay. Well, let's go with that. 25 it</p> <p>276:12 is.</p> <p>276:13 A. Okay.</p> | |

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276:14 Q. And you've seen this document before?

276:15 A. I have.

276:16 Q. And you know this to be the Memorandum

276:17 of Agreement between the United States Department

276:18 of Justice, the DEA, and Cardinal Health, correct?

276:19 A. Yes. The Settlement and Release

276:20 Agreement and Administrative Memorandum of

276:21 Agreement, yes.

276:22 Q. And for the record, it's

276:23 CAH_MDL_PRIORPROD_ HOUSE_0004009. And this

276:24 included allegations related to several of

277:1 Cardinal's facilities; is that right?

277:2 A. Allegations, yes.

277:3 Q. Against the Auburn, Washington

277:4 distribution center, the Lakeland, Florida

277:5 distribution center, the Swedesboro, New Jersey

277:6 distribution center, the Dublin Court and

277:7 Stafford, Texas distribution center, the McDonough

277:8 facility in Georgia, the Valencia facility in

277:9 California, the Denver facility in Colorado; is

277:10 that correct?

277:11 A. Those are the facilities listed, yes.

277:12 Q. And Cardinal -- well, strike that.

277:13 The allegations were that Cardinal was

277:14 shipping suspicious orders, correct?

277:15 A. The allegation in Number 8 is that

277:16 Cardinal Health failed to report suspicious

277:17 orders.

278:12 - 278:16 **Norris, Jennifer 08-07-2018 (00:00:20)**

NJ01-.89

278:12 Q. And if you'll turn to page 21.

278:13 Because you're also aware that there were

278:14 immediate suspension orders issued to each of

278:15 these facilities as well, correct?

278:16 A. Yes.

289:5 - 291:12 **Norris, Jennifer 08-07-2018 (00:02:38)**

NJ01-.90

289:5 Q. All right. The next document you're

289:6 being provided is Norris 74, I think. Do you have

289:7 it?

289:8 A. I don't see that number on here.

289:9 Q. No. It was a last minute add, but for

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289:10 the record, DEA07_01198345.
289:11 Have you seen this document before?
289:12 A. I have.
289:13 Q. Okay. And did you review it in your
289:14 preparation for the deposition today?
289:15 A. I did.
289:16 Q. And it appears to be a document or an
289:17 e-mail from Steve -- is it Reardon?
289:18 A. Reardon.
289:19 Q. Reardon. And this is a document that's
289:20 maintained in Cardinal's normal business, I'm
289:21 assuming, on its e-mail server, correct?
289:22 A. In accordance with its document
289:23 retention policies, yes.
289:24 Q. Fair enough. And does this document and
290:1 the attachments thereto appear to be fair and
290:2 accurate to what the copy you reviewed?
290:3 A. Yes.
290:4 Q. Okay. And this is actually a summary of
290:5 a meeting that HDMA had with DEA, correct?
290:6 A. That's one part of it, yes.
290:7 Q. And this is an e-mail from Mr. Reardon
290:8 to a Mr. Brantley, who we mentioned earlier,
290:9 Carolyn McPherson, as well as others; is that
290:10 right?
290:11 A. It is.
290:12 Q. And what's the subject?
290:13 A. The subject is "DEA suspicious order
290:14 monitoring."
290:15 Q. And it says, "The HDMA met with DEA
290:16 officials last Friday, September 7th, to discuss
290:17 the agency's current policy position on suspicious
290:18 orders of controlled substances."
290:19 Do you see that there?
290:20 A. I see that sentence, yes.
290:21 Q. And then it talks about a summary. And
290:22 then it says, "The DEA is setting a new standard
290:23 with which we must comply."
290:24 Correct?
291:1 A. Correct.

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291:2 Q. And then Mr. Reardon says, "This is all
291:3 coming about as the result of problems with
291:4 Internet pharmacies and controlled substance
291:5 diversion."

291:6 Isn't that right?

291:7 A. That is what this sentence says.

291:8 Q. It then talks about that they
291:9 recently -- recently they suspended ABC -- which I
291:10 think, if you and I are on the same page, is
291:11 AmerisourceBergen, correct?

291:12 A. Correct.

291:17 - 292:6

Norris, Jennifer 08-07-2018 (00:00:40)

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291:17 Q. "They recently suspended an ABC
291:18 registration and used the suspension to get them
291:19 to implement a complex and onerous suspicious
291:20 order monitoring program that meets the criteria
291:21 spelled out in the HDMA meeting summary."
291:22 And then he goes on to say at the
291:23 bottom, "We need to be proactive and implement a
291:24 program that we develop that will satisfy the
292:1 DEA's expectations and that it is not dictated to
292:2 us by the agency pursuant to a regulatory action."
292:3 Correct?

292:4 A. I see that sentence.

292:5 Q. And was this prior to the initiation of
292:6 the regulatory action --

292:8 - 293:2

Norris, Jennifer 08-07-2018 (00:01:04)

NJ01-.147

292:8 Q. -- or do you know?

292:9 A. I believe that the orders to show cause
292:10 were issued after that.

292:11 Q. And Mr. Reardon wanted to try to prevent
292:12 a regulatory action being forced to adopt any sort
292:13 of policies and procedures on suspicious order
292:14 monitoring program, correct?

292:15 A. Mr. Reardon understood the obligations
292:16 that the DEA was implementing, the new obligations
292:17 relating to the shipping requirement, and wanted
292:18 to make sure that we had a program implemented
292:19 that would comply with those new -- the new
292:20 guidance.

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| | 292:21 Q. But you said they told you about them | |
| | 292:22 way back in 2006, right? | |
| | 292:23 A. The initial communication from | |
| | 292:24 Rannazzisi was in 2006. | |
| | 293:1 Q. And you still hadn't done anything to | |
| | 293:2 implement them now in September of 2007, correct? | |
| 293:5 - 293:23 | Norris, Jennifer 08-07-2018 (00:00:52) | NJ01-.146 |
| | 293:5 A. I cannot presently say the corporation | |
| | 293:6 doesn't have present knowledge of the actions that | |
| | 293:7 we took and the timing of what those actions that | |
| | 293:8 we took in that period. | |
| | 293:9 Q. So if I understand you correctly, you | |
| | 293:10 don't have knowledge as to what actions you, | |
| | 293:11 Cardinal, took during that time frame; is that | |
| | 293:12 correct? | |
| | 293:13 A. I don't know the timing and the actions | |
| | 293:14 taken during the time period -- | |
| | 293:15 Q. So you can't tell me -- | |
| | 293:16 A. -- based on current knowledge. | |
| | 293:17 Q. So sitting here after prepping for | |
| | 293:18 three, three and a half weeks, whatever it was, | |
| | 293:19 you still can't tell us what action Cardinal took | |
| | 293:20 from the time it was told it had a shipping | |
| | 293:21 requirement for almost a year, as to what they did | |
| | 293:22 in relation to that new obligation or what they | |
| | 293:23 considered a new obligation? | |
| 294:2 - 294:5 | Norris, Jennifer 08-07-2018 (00:00:07) | NJ01-.145 |
| | 294:2 A. The corporation does not have present | |
| | 294:3 knowledge about the actions and timing of the | |
| | 294:4 actions that were taken during that period | |
| | 294:5 presently. | |
| 295:13 - 295:16 | Norris, Jennifer 08-07-2018 (00:00:12) | NJ01-.92 |
| | 295:13 Q. So sitting here today, the corporation | |
| | 295:14 can't answer when it first took action related to | |
| | 295:15 the Rannazzisi letter of 2006, correct? | |
| | 295:16 A. I cannot say right now. | |
| 296:3 - 296:8 | Norris, Jennifer 08-07-2018 (00:00:12) | NJ01-.93 |
| | 296:3 Q. In this summary being provided by | |
| | 296:4 HDMA to its members, which Cardinal is one of, as | |
| | 296:5 you testified earlier, a board member and an | |

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| 296:16 - 297:2 | <p>296:6 executive committee meeting and whatever else, 296:7 correct? 296:8 A. Correct. Norris, Jennifer 08-07-2018 (00:00:24)</p> <p>296:16 Q. Let's just keep going. 296:17 They say, "Simply complying with the 296:18 suspicious orders, regulatory requirement, does 296:19 not mean in the agency's view that the registrant 296:20 is maintaining effective program to detect and 296:21 prevent diversion." 296:22 Do you see that? 296:23 A. I do. 296:24 Q. Cardinal knew that as far back as the 297:1 first Rannazzisi letter in I believe it was 297:2 September of '06, correct?</p> <p>Norris, Jennifer 08-07-2018 (00:00:31)</p> <p>297:4 A. That is the information provided in the 297:5 initial Rannazzisi letter. 297:6 Q. Okay. And then also the DEA goes on and 297:7 indicates to the HDMA that they do not have the 297:8 resources to inspect every pharmacy; therefore, it 297:9 is important that the distributor know their 297:10 customers, correct? 297:11 A. Correct. 297:12 Q. You would agree with me that that is a 297:13 good idea on behalf of Cardinal to know who it's 297:14 distributing controlled substances to, correct?</p> <p>Norris, Jennifer 08-07-2018 (00:01:53)</p> <p>297:17 A. The Knowing Your Customer is a component 297:18 of our anti-diversion program. 297:19 Q. And as you testified to earlier, even 297:20 prior to that program going into place, you still 297:21 would take steps to know the customer; is that 297:22 fair? 297:23 A. We've always had the anti-diversion 297:24 program, the suspicious order monitoring program. 298:1 But, yes, but Know Your Customer has been a part 298:2 of that all along, yes. 298:3 Q. And I'm still taken aback. 298:4 Based on when Cardinal became informed</p> | <p>NJ01-.94</p> <p>NJ01-.144</p> <p>NJ01-.143</p> |

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298:5 of this shipping requirement by the DEA, sitting
 298:6 here today, you can't tell us when they took any
 298:7 action in that regard, correct? Actually, let's
 298:8 backstep it.
 298:9 The policies and procedures that were
 298:10 entered into in the latter part of '08 -- we
 298:11 looked at some of them earlier, right, December of
 298:12 '08?
 298:13 A. Mm-hmm.
 298:14 Q. Do you remember that?
 298:15 A. Yes.
 298:16 Q. Okay. Some of those, I believe -- and
 298:17 correct me if I'm wrong -- include a shipping
 298:18 requirement; do they not?
 298:19 A. The policy that we looked at mentions
 298:20 held orders.
 298:21 Q. So we know at least two years after
 298:22 Cardinal was aware of the shipping requirement,
 298:23 they did something, right?

299:1 - 299:11

Norris, Jennifer 08-07-2018 (00:00:35)

NJ01-.95

299:1 Q. September of '06 to December of '08. I
 299:2 was giving you the benefit of the doubt. It's
 299:3 actually 26 months, a little over two years,
 299:4 correct?
 299:5 A. We have a policy dated 2008 that
 299:6 mentions held orders. It does not -- it does not
 299:7 make a statement about prior time period.
 299:8 Q. And sitting here today, can you tell the
 299:9 jury if Cardinal did anything prior to that policy
 299:10 related to what Cardinal considers new obligation
 299:11 as far as shipping requirement?

299:13 - 300:1

Norris, Jennifer 08-07-2018 (00:00:34)

NJ01-.142

299:13 A. Yes. Our anti-diversion program was
 299:14 implemented -- anti-diversion system, suspicious
 299:15 order monitoring system, was implemented in late
 299:16 2007.
 299:17 Q. And did it include a shipping
 299:18 requirement?
 299:19 A. Yes.
 299:20 Q. And where is the policy that

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| | 299:21 specifically provides the shipping requirement? | |
| | 299:22 A. I don't have a copy of that particular | |
| | 299:23 policy. | |
| | 299:24 Q. Did you review it? | |
| | 300:1 A. I don't recall specifically. | |
| 300:20 - 300:22 | Norris, Jennifer 08-07-2018 (00:00:06) | NJ01-.140 |
| | 300:20 Q. So you believe that you implemented a | |
| | 300:21 policy and procedure for the shipping requirement | |
| | 300:22 in late 2007? | |
| 300:24 - 301:2 | Norris, Jennifer 08-07-2018 (00:00:12) | NJ01-.141 |
| | 300:24 A. We initiated our suspicious order | |
| | 301:1 monitoring system in late 2007. I cannot speak to | |
| | 301:2 policies and procedures. | |
| 303:17 - 303:24 | Norris, Jennifer 08-07-2018 (00:00:36) | NJ01-.135 |
| | 303:17 Q. So prior to 2007, did Cardinal have a | |
| | 303:18 system for detecting all suspicious orders? | |
| | 303:19 A. Prior to 2007, Cardinal Health had a | |
| | 303:20 suspicious order monitoring program that produced | |
| | 303:21 the reports as required by the DEA, the ingredient | |
| | 303:22 limit report, the excessive order report. | |
| | 303:23 Q. So it did not have a specific suspicious | |
| | 303:24 order program, correct? | |
| 304:3 - 304:5 | Norris, Jennifer 08-07-2018 (00:00:09) | NJ01-.136 |
| | 304:3 Q. Actually, let me ask it differently. It | |
| | 304:4 didn't have a specific system in place to report | |
| | 304:5 suspicious orders? | |
| 304:7 - 304:14 | Norris, Jennifer 08-07-2018 (00:00:23) | NJ01-.137 |
| | 304:7 A. It had the -- as part of the program, it | |
| | 304:8 had the system in place to calculate the | |
| | 304:9 algorithms to make the suspicious -- to make the | |
| | 304:10 ingredient limit reports as required. | |
| | 304:11 Q. Okay. Right. No, I got that. | |
| | 304:12 But, again, did Cardinal Health have a | |
| | 304:13 system for detecting all suspicious orders prior | |
| | 304:14 to January 2007? | |
| 304:16 - 304:18 | Norris, Jennifer 08-07-2018 (00:00:12) | NJ01-.138 |
| | 304:16 A. I believe I stated that we had a program | |
| | 304:17 in place to make the reports that we were required | |
| | 304:18 to make to the DEA on the ingredient limit report. | |
| 305:10 - 305:20 | Norris, Jennifer 08-07-2018 (00:00:30) | NJ01-.108 |

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| | 305:10 Q. Ms. Norris, what do you need to 305:11 clarify? 305:12 A. I think we're still talking past each 305:13 other. On the suspicious order reporting 305:14 requirement, prior to 2007 Cardinal Health 305:15 complied with its suspicious order reporting 305:16 requirement in the statute. 305:17 In doing -- but they did that by 305:18 submitting the ingredient limit reports and the 305:19 excessive order reports. That constituted our 305:20 suspicious order reporting. | |
| 306:16 - 306:19 | Norris, Jennifer 08-07-2018 (00:00:16) | NJ01-.109 |
| | 306:16 Q. So I'll ask the question again. 306:17 Did Cardinal have in place a system for reporting 306:18 all suspicious orders prior to 2007? 306:19 A. Yes. | |
| 306:23 - 307:23 | Norris, Jennifer 08-07-2018 (00:01:18) | NJ01-.97 |
| | 306:23 Q. Now, as Norris 19, I'm going to pass you 306:24 what has been marked as Plaintiff's 34. And I'm 307:1 willing to bet you've looked at this before today. 307:2 A. Yes. 307:3 Q. Does that appear to be a true and 307:4 accurate copy of the Memorandum of Agreement 307:5 between the United States Department of Justice, 307:6 the DEA, and Cardinal Health? 307:7 A. Yes. It's not the fully executed copy, 307:8 but ... 307:9 Q. And if you turn to page 2 of that 307:10 document. 307:11 A. Yes. 307:12 Q. Do you see there in the first paragraph, 307:13 "Cardinal admits that its due diligence efforts 307:14 for some pharmacy customers and its compliance 307:15 with the 2008 MOA in certain respects were 307:16 inadequate." 307:17 Correct? 307:18 A. I see that language, yes. 307:19 Q. Does Cardinal agree with that? 307:20 A. "Cardinal agrees that its due diligence 307:21 efforts for some pharmacy customers in certain | |

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| 309:22 - 310:19 | <p>307:22 respects were inadequate and thus its compliance 307:23 with the 2008 MOA."</p> <p>Norris, Jennifer 08-07-2018 (00:01:15)</p> <p>309:22 Q. So based on this Memorandum 309:23 of Understanding entered in 2012, there were fines 309:24 of combined, I guess, \$44 million paid by Cardinal 310:1 for its breaches of the Controlled Substances Act, 310:2 correct?</p> <p>310:3 A. There was a settlement of 44 -- a total 310:4 of \$44 million. And in connection -- in the 310:5 settlement agreement, there was an admission, a 310:6 limited admission, as to certain actions by 310:7 Cardinal.</p> <p>310:8 Q. Well, it says the "Covered Conduct: The 310:9 conduct in the February 2nd, 2012 order to show 310:10 cause, the failure to maintain effective controls 310:11 against diversion; C, the failure to detect and 310:12 report suspicious orders and the failure to adhere 310:13 to the 2008 MOA."</p> <p>310:14 Is that what it says?</p> <p>310:15 A. That's the definition of covered 310:16 conduct.</p> <p>310:17 Q. Okay. Now, let me show you -- and I 310:18 know we're getting close on time.</p> <p>310:19 A. Which is what the settlement relates to.</p> | NJ01-.98 |
| 310:23 - 311:9 | <p>Norris, Jennifer 08-07-2018 (00:00:42)</p> <p>310:23 Q. All right. And that's going to be 310:24 Exhibit 35.</p> <p>311:1 Now, ma'am, before we jump in real 311:2 briefly to those threshold changes, you referenced 311:3 a 1998 report to the U.S. Attorney General. At 311:4 what point in time did Cardinal adopt that 311:5 document as its policies or procedures?</p> <p>311:6 A. 1998 when we received notice of it, I 311:7 believe.</p> <p>311:8 Q. So Cardinal officially adopted it into 311:9 its policies and procedures in 1998 --</p> | NJ01-.131 |
| 311:11 - 311:23 | <p>Norris, Jennifer 08-07-2018 (00:00:32)</p> <p>311:11 Q. -- correct?</p> <p>311:12 A. I don't know the answer about policies</p> | NJ01-.117 |

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311:13 and procedures. That was the guidance we received
311:14 in 1998, which we followed.
311:15 Q. But this was a report provided to the
311:16 U.S. Attorney General. You mentioned that
311:17 earlier, correct?
311:18 A. Correct, by the DEA.
311:19 Q. Not provided to the wholesale
311:20 distributors?
311:21 A. It wasn't a report directly to the
311:22 wholesale distributors. It was to the Attorney
311:23 General.

Plaintiff Designations = 01:32:47

Defense Designations = 00:01:16

Defense Completeness Counters = 00:10:05

Plaintiff Counter Counters = 00:01:07

Total Time = 01:45:15